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WHEN: Tuesday, September 11, 2012
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, and 524

[Docket No. FDA–2012–N–0002]

New Animal Drugs; Cephalexin; Fentanyl; Milbemycin Oxime and Praziquantel

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during June 2012. FDA is also informing the public of the availability of summaries the basis of approval and of environmental review documents, where applicable.

DATES: This rule is effective August 9, 2012.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, email: *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA's Center for Veterinary Medicine is adopting use of a monthly **Federal Register** document to codify approval actions for new animal drug applications (NADAs) and abbreviated new animal drug application (ANADAs). CVM will no longer publish a separate rule for each action. This approach will allow a more efficient use of available resources.

In this document, FDA is amending the animal drug regulations to reflect the original and supplemental approval actions during June 2012, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents at the CVM FOIA Electronic Reading Room: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.*

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING JUNE 2012

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR section	FOIA summary	NEPA review
141–326 ...	Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137.	RILEXINE (cephalexin) Chewable Tablets for Dogs.	Original approval for the treatment of secondary superficial bacterial pyoderma in dogs caused by susceptible strains of *Staphylococcus pseudintermedius*.	New 520.376	yes	CE [1]
141–337 ...	Nexcyon Pharmaceuticals, Inc., 644 W. Washington Ave., Madison, WI 53703.	RECUVYRA (fentanyl) Transdermal Solution.	Original approval for control of postoperative pain associated with surgical procedures in dogs.	New 524.916	yes	CE [1]
141–338 ...	Novartis Animal Health US, Inc., 3200 Northline Ave., suite 300, Greensboro, NC 27408.	INTERCEPTOR SPECTRUM (milbemycin oxime/ praziquantel) Chewable Tablets.	Original approval for prevention of heartworm disease caused by *Dirofilaria immitis* and for the treatment and control of adult roundworm (*Toxocara canis, Toxascaris leonina*), adult hookworm (*Ancylostoma caninum*), adult whipworm (*Trichuris vulpis*), and adult tapeworm (*Taenia pisiformis, Echinococcus multilocularis,* and *E. granulosus*) infections in dogs and puppies two pounds of body weight or greater and six weeks of age and older.	New 520.1445	yes	CE [1]

[1] The agency has determined under 21 CFR 25.33 that this action is categorically excluded (CE) from the requirement to submit an environmental assessment (EA) or an environmental impact statement (EIS) because it is of a type that does not individually or cumulatively have a significant effect on the human environment.

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

List of Subjects

21 CFR Part 510

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

21 CFR Parts 520 and 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

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

■ 2. In § 510.600, in the table in paragraph (c)(1), alphabetically add an entry for ''Nexcyon Pharmaceuticals, Inc.''; and in the table in paragraph (c)(2), numerically add an entry for ''050929'' to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Nexcyon Pharmaceuticals, Inc., 644 W. Washington Ave., Madison, WI 53703	050929
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
050929	Nexcyon Pharmaceuticals, Inc., 644 W. Washington Ave., Madison, WI 53703
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 4. Section 520.376 is added to read as follows:

§ 520.376 Cephalexin.

(a) *Specifications.* Each chewable tablet contains 75, 150, 300, or 600 milligrams (mg) cephalexin.

(b) *Sponsor.* See No. 051311 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Dogs*—(i) *Amount.* Administer 22 mg per kilogram of body weight twice daily for 28 days.

(ii) *Indications for use.* For the treatment of secondary superficial bacterial pyoderma in dogs caused by susceptible strains of *Staphylococcus pseudintermedius.*

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

(2) [Reserved]

§ 520.1445 [Redesignated as § 520.1441]

§ 520.1446 [Redesignated as § 520.1443]

■ 5. Redesignate §§ 520.1445 and 520.1446 as §§ 520.1441 and 520.1443, respectively.

■ 6. Revise the section heading of newly redesignated § 520.1445 to read as follows:

§ 520.1441 Milbemycin oxime.

* * * * *

■ 7. Revise the section heading of newly redesignated § 520.1446 to read as follows:

§ 520.1443 Milbemycin oxime and lufenuron.

* * * * *

■ 8. Add new § 520.1445 to read as follows:

§ 520.1445 Milbemycin oxime and praziquantel.

(a) *Specifications.* Each chewable tablet contains:

(1) 2.3 milligrams (mg) milbemycin oxime and 22.8 mg praziquantel;

(2) 5.75 mg milbemycin oxime and 57 mg praziquantel;

(3) 11.5 mg milbemycin oxime and 114 mg praziquantel; or

(4) 23 mg milbemycin oxime and 228 mg praziquantel.

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Dogs*—(i) *Amount.* Administer orally, once a month, a minimum dosage of 0.23 mg per pound (mg/lb) of body weight (0.5 mg per kilogram (mg/kg)) milbemycin oxime and 2.28 mg/lb of body weight (5 mg/kg) praziquantel.

(ii) *Indications for use.* For the prevention of heartworm disease caused by *Dirofilaria immitis* and for the treatment and control of adult roundworm (*Toxocara canis, Toxascaris leonina*), adult hookworm (*Ancylostoma caninum*), adult whipworm (*Trichuris vulpis*), and adult tapeworm (*Taenia pisiformis, Echinococcus multilocularis,* and *E. granulosus*) infections in dogs and puppies 2 pounds of body weight or greater and 6 weeks of age and older.

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

(2) [Reserved]

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 9. The authority citation for 21 CFR part 524 continues to read as follows:

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

■ 10. Add § 524.916 to read as follows:

§ 524.916 Fentanyl.

(a) *Specifications.* Each milliliter of solution contains 50 milligrams (mg) fentanyl.

(b) *Sponsor.* See No. 050929 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Dogs*—(i) *Amount.* 1.2 mg/lb (2.7 mg/kg) applied topically to the dorsal scapular area 2 to 4 hours prior to surgery.

(ii) *Indications for use.* For the control of postoperative pain associated with surgical procedures in dogs.

(iii) *Limitations.* Fentanyl is a Class II controlled substance. Observe all ''black-box warnings'' on product labeling. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

Dated: August 3, 2012.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2012–19498 Filed 8–8–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 502

Definition of Enforcement Action

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is amending its regulation setting out definitions to add a definition of ''enforcement action.''

DATES: *Effective Date:* September 10, 2012.

FOR FURTHER INFORMATION CONTACT: Melissa Schlichting, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7003; email: *Melissa_Schlichting@nigc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* was signed into law on October 17, 1988. The Act establishes the National Indian Gaming Commission (''Commission'') and sets out a comprehensive framework for the regulation of gaming on Indian lands. The purposes of IGRA include providing a statutory basis for the operation of gaming by Indian Tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; ensuring that the Indian tribe is the primary beneficiary of the gaming operation; and declaring that the establishment of independent federal regulatory authority for gaming on Indian lands, the establishment of federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue. 25 U.S.C. 2702.

II. Previous Rulemaking Activity

On November 18, 2010, the National Indian Gaming Commission (NIGC) issued a Notice of Inquiry and Notice of Consultation (NOI) advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment on which of its regulations were most in need of revision, in what order the Commission should review its regulations, and the process NIGC should utilize to make revisions. 75 FR 70680 (Nov. 18, 2010). On April 4, 2011, after holding eight consultations and reviewing all comments, NIGC published a Notice of Regulatory Review Schedule (NRR) setting out a consultation schedule and process for review. 76 FR 18457 (Oct. 12, 2011). The Commission's regulatory review process established a tribal consultation schedule with a description of the regulation groups to be covered at each consultation. Part 502 was included in this regulatory review.

The Commission conducted a total of 14 tribal consultations as part of its review of Part 573. Tribal consultations were held in every region of the country and were attended by numerous Tribes and Tribal leaders or their representatives. On June 28, 2011, the Commission requested public comment on a Preliminary Draft of amendments to Part 573.

After considering the comments received from the public and through Tribal consultations, the Commission realized that to supplement the amendments made to Part 573, a definition of ''enforcement action'' needed to be added to Part 502.

On December 27, 2011, the Commission published a Notice of Proposed Rulemaking based on the comments received during the Tribal consultations and comments on the Preliminary Draft of Part 573. The Notice of Proposed Rulemaking proposed a definition for ''enforcement action'' be added to Part 502. Following the publication of the proposed rule, an additional 5 Tribal consultations were held. Comments to the proposed rule were due February 27, 2012.

III. Review of Public Comments

In response to our Notice of Proposed Rulemaking, published December 27, 2011, 76 FR 80846, we received the following comments:

Section 502.24 Enforcement Action

Comment: Two commenters requested that the definition of ''enforcement action'' be clarified to specifically exclude letters of concern and warning letters. The commenters felt that without such clarification a letter of concern or a warning letter could be considered an ''enforcement action.''

Response: The Commission agrees with the commenter that clarification in the regulation is beneficial. To that end, the Commission added a sentence on to the end of the proposed definition of ''enforcement action'' specifically stating that ''[e]nforcement action does not include any action taken by NIGC staff, including but not limited to, the issuance of a letter of concern under § 573.2.'' This change does not include a ''warning letter'' because it was removed by the Commission from the § 573.2 final rule.

Comment: One commenter requested the Commission consider removing ''against any person engaged in gaming for a violation of any provision of IGRA, the regulations of this chapter, or tribal regulations, ordinances, or resolutions approved under 25 U.S.C. 2710 or 2712 of IGRA'' because adding the statutory language is superfluous and potentially confusing.

Response: The Commission considered the comment and disagrees that the inclusion of a paraphrased portion of the statutory language within the definition causes confusion. To be clear, the language is not an exact quotation of the statutory language; it is a paraphrasing of such language, which helps to ensure that the definition remains consistent with the statute and that the extent of the Chair's authority is clear to the regulated community.

Comment: One commenter recommends that the definition of ''Chairman'' be amended or changed to indicate that the word ''Chair'' can be used interchangeably or the word ''Chair'' should be separately defined.

Response: The Commission intends, as the opportunity to do so arises, to convert all references to the ''Chairman'' contained in the NIGC regulations to the shortened, gender-neutral word ''Chair.'' The use of the word ''Chair'' should not cause confusion as it is only a shortened form of the word ''Chairman.''

Comment: One commenter asked whether the definition of ''enforcement action'' included audit and enforcement of revenue allocation plan requirements because the commenter believes the Commission does not have the authority to do so.

Response: The Commission believes the commenter's question goes beyond the scope of the NOI and NRR and no answer is required. However, the definition of ''enforcement action'' clearly defines the Commission's authority to enforce violations of any provision of IGRA, NIGC regulations, and any tribal ordinances, resolutions, or regulations that are approved by the Chair under IGRA. Therefore, to the extent IGRA, NIGC regulations, or any tribal ordinances, resolutions, or regulations approved by the Chair under IGRA, create audit obligations or revenue allocation plan requirements, the Chair has the authority to enforce them.

IV. Regulatory Matters

Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of $100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. Nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

This rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 2501, *et seq.,* and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 25 CFR Part 502

Enforcement actions.

For the reasons stated in the preamble, the National Indian Gaming Commission amends 25 CFR part 502 as follows:

PART 502—DEFINTIONS OF THIS CHAPTER

■ 1. The authority citation for part 502 is revised to read as follows:

Authority: 25 U.S.C. 2706(b)(10); 25 U.S.C. 2713.

■ 2. Add § 502.24 to read as follows:

§ 502.24 Enforcement action.

Enforcement action means any action taken by the Chair under 25 U.S.C. 2713 against any person engaged in gaming, for a violation of any provision of IGRA, the regulations of this chapter, or tribal regulations, ordinances, or resolutions approved under 25 U.S.C. 2710 or 2712 of IGRA, including, but not limited to, the following: A notice of violation; a civil fine assessment; or an order for temporary closure. Enforcement action does not include any action taken by NIGC staff, including but not limited to, the issuance of a letter of concern under § 573.2 of this chapter.

Dated: July 31, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2012–19169 Filed 8–8–12; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 537

Management Contracts—Background Investigations

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is amending its regulation to allow reduced scope background investigations for specific types of entities with a financial interest in, or having management responsibility for, a management contract, and to update the forms of payment that may be accepted by the NIGC for background investigation fees.

DATES: *Effective Date:* September 10, 2012.

FOR FURTHER INFORMATION CONTACT: Melissa Schlichting, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7003; email: *Melissa_Schlichting@nigc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA) requires that each person with a financial interest in, or management responsibility for, a management contract for class II gaming, and in the case of a corporation, the individual members of the corporation's board of directors and stockholders who hold 10% or more of the issued and outstanding stock, submit background information to the Chair. 25 U.S.C. 2711(a)(1). IGRA also requires that the Chair not approve any management contract if he or she determines that any person with a financial interest in, or management responsibility for, a management contract for class II gaming, and in the case of a corporation, the individual members of the corporation's board of directors and stockholders who hold 10% or more of the issued and outstanding stock is ''a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.'' 25 U.S.C. 2711(e)(1)(D). Pursuant to the Commission's authority to ''promulgate such regulations and guidelines as it deems appropriate to implement the provisions of [IGRA],'' 25 U.S.C. 2706(a)(10), the Commission adopted a regulation, Part 537, requiring certain persons and entities undergo a background investigation, including entities with a financial interest in a management contract. 25 CFR 537.1(a)(4). The Commission is amending § 537.1(a)(4) to expand the types of entities with a financial interest in a management contract that may, at the discretion of the Chair, undergo a streamlined review, in the form of a reduced scope background investigation.

In addition, it came to the attention of the Commission that it could no longer accept certain methods of payment, specifically the posting of a bond or letter of credit for background investigation fees pursuant to

§ 537.3(b),(c) and (d). Thus, the Commission is amending § 537.3(b),(c) and (d) to remove the following words: ''bond, letter of credit, or.''

II. Previous Rulemaking Activity

On November 18, 2010, the National Indian Gaming Commission (NIGC) issued a Notice of Inquiry and Notice of Consultation (NOI) advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment. 75 FR 70680 (Nov. 18, 2010). After consulting with tribes, NIGC published a Notice of Regulatory Review Schedule (NRR) setting out a consultation schedule and process for review. 76 FR 18457 (Oct. 12, 2011). The Commission's regulatory review process established a tribal consultation schedule with a description of the regulation groups to be covered at each consultation. Part 537 was included in this regulatory review.

The Commission conducted tribal consultations as part of its review of Part 537. Tribal consultations were held in every region of the country and were attended by numerous Tribes and Tribal leaders or their representatives. Comments received from the NRR and tribal consultations included a recommendation for the Commission to consider amending the regulations to provide a more streamlined or expedited background investigation for tribes, tribal entities, and certain other entities already required be licensed pursuant to a tribal-state compact or are otherwise required to undergo a background investigation as a federally regulated entity.

Additionally, during the review of Part 537 the Department of the Interior brought to the attention of the Commission that it could no longer accept certain methods of payment, specifically the posting of a bond or letter of credit for background investigation fees pursuant to § 537.3(b),(c) and (d).

After considering the comments received from the public and through Tribal consultations, the Commission decided to amend Part 537. On June 28, 2011, the Commission requested public comment on a Preliminary Draft of amendments to Part 537.

On December 27, 2011, the Commission published a Notice of Proposed Rulemaking based on the comments received during the Tribal consultations and comments on the Preliminary Draft of Part 537. The Notice of Proposed Rulemaking proposed an expanded list of entities eligible for a reduced scope background investigation at the discretion of the Chair and removed the posting of a bond or letter of credit as an available form of payment for background investigation fees. Following the publication of the proposed rule, an additional 4 Tribal consultations were held. Comments to the proposed rule were due February 21, 2012.

III. Review of Public Comments

In response to our Notice of Proposed Rulemaking, published December 22, 2011, 76 FR 79565, we received the following comments.

Section 537.1(a)(4) Applications for Approval

Comment: Several commenters suggested that the Commission remove or define the terms ''institutional investor'' and ''federally regulated'' to clarify what entities or institutions would be eligible for a reduced scope background investigation.

Response: The Commission disagrees with the commenters and believes that the terms ''institutional investor'' and ''federally regulated'' should remain in the regulation as they provide guidance as to the types of entities meant to be included therein. Also, the Commission believes that any necessary clarification of the terms ''institutional investor'' or ''federally regulated'' can be accomplished through guidance in the form of a bulletin rather than through formal regulation.

Comment: Two commenters suggested that the proposed regulation be changed to create a rebuttable presumption that ''a tribe, a wholly owned tribal entity, national bank or institutional investor that is federally regulated or is required to undergo a background investigation and licensure by a state or tribe pursuant to a tribal-state compact'' qualifies for a reduced scope background investigation.

Response: The Commission believes the commenters' suggestion goes beyond the scope of the NOI and NRR and no answer is required. However, the Commission believes that such a presumption, even if rebuttable by the Chair, would be impermissible because it would be contrary to the express statutory language that requires the Chair obtain background information from a person or an entity with a financial interest in, or management responsibility for, a management contract, and use that information to determine if a management contract can be approved. *See* 25 U.S.C. 2711(a)(1)(A) and (e).

Section 537.3 Fees for Background Investigations

Comment: Several commenters suggested changing § 537.3(d) to state at the beginning that ''any remaining balance of the deposit will be returned to the management contractor * * *'' in order to clarify what specific portion of the deposit, if any, is to be returned to the management contractor.

Response: The Commission agrees with the comment and has added the following to the beginning of § 537.3(d): ''[a]ny remaining balance of.''

IV. Regulatory Matters

Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of $100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. Nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the rule does not constitute a major

federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

This rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 2501, *et seq.,* and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 25 CFR Part 537

Gambling, Indians—tribal government, Indians—business and finance.

For the reasons discussed in the Preamble, the Commission amends 25 CFR part 537 as follows:

PART 537—BACKGROUND INVESTIGATIONS FOR PERSONS OR ENTITIES WITH A FINANCIAL INTEREST IN, OR HAVING MANAGEMENT RESPONSIBILITY FOR, A MANAGEMENT CONTRACT

■ 1. The authority citation for part 537 continues to read as follows:

Authority: 25 U.S.C. 81, 2706(b)(10), 2710(d)(9), 2711.

■ 2. Amend § 537.1 by revising paragraph (a)(4) to read as follows:

§ 537.1 Applications for approval.

(a) * * *

(4) Any entity with a financial interest in a management contract (in the case of any tribe, a wholly owned tribal entity, national bank, or institutional investor that is federally regulated or is required to undergo a background investigation and licensure by a state or tribe pursuant to a tribal-state compact, the Chair may exercise discretion and reduce the scope of the information to be furnished and the background investigation to be conducted); and

* * * * *

■ 3. Revise paragraphs (b) introductory text, (c) introductory text, and (d) of § 537.3 to read as follows:

§ 537.3 Fees for background investigations.

* * * * *

(b) The management contractor shall post a deposit with the Commission to cover the cost of the background investigations as follows:

* * * * *

(c) The management contractor shall be billed for the costs of the investigation as it proceeds; the investigation shall be suspended if the unpaid costs exceed the amount of the deposit available.

* * * * *

(d) Any remaining balance of the deposit will be returned to the management contractor when all bills have been paid and the investigations have been completed or terminated.

■ 4. Section 537.4 is revised to read as follows:

§ 537.4 Determinations.

The Chair shall determine whether the results of a background investigation preclude the Chair from approving a management contract because of the individual disqualifying factors contained in § 533.6(b)(1) of this chapter. The Chair shall promptly notify the tribe and management contractor if any findings preclude the Chair from approving a management contract or a change in financial interest.

Dated: July 31, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2012–19153 Filed 8–8–12; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 571

RIN 3141–AA49

Issuance of Investigation Completion Letters

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Final rule.

SUMMARY: This action amends our regulations to provide for the issuance of an investigation completion letter if the Agency will not recommend the commencement of an enforcement proceeding against a respondent.

DATES: *Effective Date:* September 10, 2012.

FOR FURTHER INFORMATION CONTACT: John Hay, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7009.

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* was signed into law on October 17, 1988. The Act establishes the National Indian Gaming Commission (''Commission'') and sets out a comprehensive framework for the regulation of gaming on Indian lands. The purposes of IGRA include providing a statutory basis for the operation of gaming by Indian Tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; ensuring that the Indian tribe is the primary beneficiary of the gaming operation; and declaring that the establishment of independent federal regulatory authority for gaming on Indian lands, the establishment of federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue. 25 U.S.C. 2702.

II. Previous Rulemaking Activity

On November 18, 2010, the National Indian Gaming Commission (NIGC) issued a Notice of Inquiry and Notice of Consultation advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment on which of its regulations were most in need of revision, in what order the Commission should review its regulations, and the process NIGC should utilize to make revisions. 75 FR 70680 (Nov. 18, 2010). On April 4, 2011, after holding eight consultations and reviewing all comments, NIGC published a Notice of Regulatory Review Schedule setting out a consultation schedule and process for review. 76 FR 18457. The Commission's regulatory review process established a tribal consultation schedule with a description of the regulation groups to be covered at each consultation. This part 571 was included in the regulatory review.

As part of its review of part 571, the Commission consulted with tribes and tribal leaders or their representatives in every region of the country. Further, on June 28, 2011, the Commission issued a preliminary draft of amendments to Part 571 and requested public comment.

The Notice of Regulatory Review Schedule announced the Commission's intent to review whether part 571 needed revision to clarify the NIGC's authority to access records located off-site, including at sites maintained and owned by third-parties. Comments received by the Commission in response to the Notice of Inquiry expressed the view that NIGC already possessed that authority, that it was clear and that it

did not need to be further clarified through regulation. The Commission agreed that further clarification was unnecessary and did not propose changes to that section.

Throughout the review process of this part, the Commission received comments that the regulations should include a process for notifying a tribe that an investigation has been concluded. Tribal representatives explained that in some instances they were never notified of the results of investigations opened by the NIGC years ago. The discussion draft attempted to formalize NIGC's informal process of advising a tribe, through NIGC's authorized representative, after an investigation was terminated. All comments received on the discussion draft were supportive of the concept. However, several comments indicated that such a letter should be mandatory and not discretionary. The Commission believes it is important to provide the Chair with the discretion to make those determinations on a case-by-case basis. The final rule retains that discretion.

After considering the comments received from the public and through tribal consultation, the Commission published a Notice of Proposed Rulemaking on October 12, 2011. The comment period closed on December 12, 2011.

After considering the comments received from the public and through tribal consultation, the Commission published a Notice of Proposed Rulemaking on October 12, 2011. The comment period closed on December 12, 2011.

III. Review of Public Comments

In response to our Notice of Proposed Rulemaking, published October 11, 2011, 76 FR 63237, we received the following comments.

Comment: Numerous comments support the issuance of an investigation closure letter. Many comments stated the importance of providing some indication when an investigation has been completed and that an enforcement action is no longer active.

Response: The Commission agrees that in some circumstances such a letter may be appropriate.

Comment: One commenter suggested that the issuance of investigation closure letters be mandatory instead of voluntary.

Response: The Commission believes that the Chair should retain discretion in conducting investigations and when staff may indicate that a matter is closed. Therefore, the Commission believes these letters should not be mandatory.

IV. Regulatory Matters

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies or geographic regions and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency within the Department of the Interior, is exempt from compliance with the Unfunded Mandates Reform Act. 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that this rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act

The Commission has determined that this rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*

Paperwork Reduction Act

This rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.,* and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 25 CFR Part 571

Gambling, Indian—lands, Indian—tribal government, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in the preamble, the Commission amends 25 CFR part 571 as follows:

PART 571—MONITORING AND INVESTIGATIONS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 25 U.S.C. 2701 *et seq.*

■ 2. Add new § 571.4 to subpart A to read as follows:

§ 571.4 Investigation completion letter.

In instances where NIGC has concluded its investigation of a particular matter and will not recommend the commencement of an enforcement proceeding against a respondent at that time, the Commission's authorized representative, in his or her discretion, may advise the party by letter that the investigation has been completed. An investigation completion letter does not constitute a finding that no violation of IGRA, NIGC regulations, or a tribe's approved gaming ordinance occurred. Further, an investigation completion letter does not preclude the reopening of an investigation or the initiation of an enforcement action by the Chair.

Dated: July 31, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2012–19166 Filed 8–8–12; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 573

Enforcement Actions

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) is amending its enforcement regulation to include a graduated pre-enforcement process through which a tribe may come into voluntary compliance.

DATES: *Effective Date:* September 10, 2012.

FOR FURTHER INFORMATION CONTACT: Melissa Schlichting, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Telephone: 202–632–7003; email: *Melissa_Schlichting@nigc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Indian Gaming Regulatory Act (IGRA or Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* was signed into law on October 17, 1988. The Act establishes the National Indian Gaming Commission (''Commission'') and sets out a comprehensive framework for the regulation of gaming on Indian lands. The purposes of IGRA include providing a statutory basis for the operation of gaming by Indian Tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; ensuring that the Indian tribe is the primary beneficiary of the gaming operation; and declaring that the establishment of independent federal regulatory authority for gaming on Indian lands, the establishment of federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue. 25 U.S.C. 2702.

II. Previous Rulemaking Activity

On November 18, 2010, the National Indian Gaming Commission (NIGC) issued a Notice of Inquiry and Notice of Consultation (NOI) advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment. 75 FR 70680 (Nov. 18, 2010). After consulting with tribes, NIGC published a Notice of Regulatory Review Schedule (NRR) setting out a consultation schedule and process for review. 76 FR 18457 (Oct. 12, 2011). The Commission's regulatory review process established a tribal consultation schedule with a description of the regulation groups to be covered at each consultation. Part 573 was included in this regulatory review.

The Commission conducted tribal consultations as part of its review of Part 573. Tribal consultations were held in every region of the country and were attended by numerous Tribes and Tribal leaders or their representatives.

After considering the comments received from the public and through Tribal consultations, the Commission proposed amending Part 573 to include a graduated pre-enforcement process whereby a gaming operation may achieve voluntary compliance with the IGRA, Commission regulations or tribal ordinances and resolutions approved by the Chair. Following the publication of the proposed rule, additional Tribal consultations were held. The public comment period on the proposed rule closed on February 27, 2012.

III. Review of Public Comments

In response to our Notice of Proposed Rulemaking, published December 27, 2011, 76 FR 80847, we received the following comments:

Section 573.2 When may a letter of concern and/or warning letter be issued?

Comment: One commenter argued that, as currently drafted, a warning letter is essentially the same as a notice of violation, except that a warning letter cannot be appealed. The commenter stated that a warning letter would be considered final agency action by a court even though it is issued by NIGC staff rather than the Chair. Therefore, the commenter suggested that the NIGC remove warning letters as a pre-enforcement step because a letter of concern is sufficient to accomplish the Commission's intent to encourage voluntary compliance and resolve any potential enforcement issues. The commenter stated further that because a warning letter contains a finding that a violation has occurred, it could have significant negative repercussions for a tribe that is required to report such actions to lenders or other debt holders, and may also have negative licensing implications for a tribe and its employees.

Response: The Commission agrees with the commenter and has removed warning letters as a pre-enforcement option.

IV. Regulatory Matters

Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of $100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions. Nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

This rule does not require information collection under the Paperwork Reduction Act of 1995, 44 U.S.C. 2501, *et seq.,* and is therefore not subject to review by the Office of Management and Budget.

List of Subjects in 25 CFR Part 573

Enforcement, Enforcement actions, Gambling, Gaming, Indians, Indian gaming.

For the reasons stated in the preamble, the National Indian Gaming Commission amends 25 CFR part 573 as follows:

PART 573—COMPLIANCE AND ENFORCEMENT

■ 1. The Authority citation for part 573 is revised to read as follows:

Authority: 25 U.S.C. 2706(b)(10); 25 U.S.C. 2713; E.O. 13175, 65 FR 67249, 3 CFR, 2000 Comp., p. 304.

■ 2. Revise the part 573 heading to read as set forth above.

■ 3. Revise § 573.1 to read as follows:

§ 573.1 What is the purpose of this part?

Voluntary compliance is the goal of the Commission. Voluntary compliance is achieved when a tribe and the NIGC staff are able to resolve any potential enforcement issues prior to the Chair issuing an enforcement action. This part sets forth efforts for achieving voluntary compliance and enforcement action when voluntary compliance is not forthcoming. While this part is intended to garner voluntary compliance through a graduated enforcement process, there may be circumstances under which a graduated enforcement process is omitted and an enforcement action must be taken. This part also sets forth general rules governing the Commission's enforcement of the Act, this chapter, and tribal ordinances and resolutions approved by the Chair under part 522 of this chapter. Civil fines in connection with notice of violation issued under this part are addressed in part 575 of this chapter.

■ 4. Add § 573.2 to read as follows:

§ 573.2 When may a letter of concern be issued?

(a) Prior to the Chair taking an enforcement action, a letter of concern may be provided to the respondent by NIGC staff, detailing concerns regarding the respondent's compliance with the Act, this chapter, or any tribal ordinance or resolution approved by the Chair under part 522 of this chapter. A letter of concern describes the available facts and information, includes a preliminary assessment regarding the incident or condition, and indicates that it may be a violation.

(b) Action under this section does not constitute agency action.

(c) A letter of concern issued under paragraph (b) of this section must provide a time period for the respondent to respond. If the letter of concern is resolved without enforcement action, NIGC staff may send an investigation completion letter pursuant to § 571.4 of this chapter.

(d) The Chair's discretion to take an enforcement action is not limited or constrained in any way by this section. When the Chair takes enforcement action before a letter of concern is issued, the enforcement action must state the reasons for moving directly to an enforcement action without first issuing a letter of concern.

■ 5. In § 573.3, revise paragraph (a) to read as follows:

§ 573.3 When may the Chair issue a notice of violation?

(a) The Chair may issue a notice of violation to any person for violations of any provision of the Act or this chapter, or of any tribal ordinance or resolution approved by the Chair under part 522 of this chapter.

* * * * *

§ 573.6 [Redesignated as § 573.4]

■ 6. Redesignate § 573.6 as § 573.4.

■ 7. In newly redesignated § 573.4, revise the section heading and paragraphs (a) introductory text, (a)(3), (6), (7), (8), (9), (12), (c) introductory text, (c)(1), (c)(2) introductory text, and (c)(3) to read as follows:

§ 573.4 When may the Chair issue an order of temporary closure?

(a) *When an order of temporary closure may issue.* Simultaneously with or subsequently to the issuance of a notice of violation under § 573.3, the Chair may issue an order of temporary closure of all or part of an Indian gaming operation if one or more of the following substantial violations are present:

* * * * *

(3) A gaming operation operates for business without a tribal ordinance or resolution that the Chair has approved under part 522 of this chapter.

* * * * *

(6) There is clear and convincing evidence that a gaming operation defrauds a tribe.

(7) A management contractor operates for business without a contract that the Chair has approved under part 533 of this chapter.

(8) Any person knowingly submits false or misleading information to the Commission or a tribe in response to any provision of the Act, this chapter, or a tribal ordinance or resolution that the Chair has approved under part 522 of this chapter.

(9) A gaming operation refuses to allow an authorized representative of the Commission or an authorized tribal official to enter or inspect a gaming operation, in violation of § 571.5 or § 571.6 of this chapter, or of a tribal ordinance or resolution approved by the Chair under part 522 of this chapter.

* * * * *

(12) A gaming operation's facility is constructed, maintained, or operated in a manner that threatens the environment or the public health and safety, in violation of a tribal ordinance or resolution approved by the Chair under part 522 of this chapter.

* * * * *

(c) *Informal expedited review.* Within seven (7) days after service of an order of temporary closure, the respondent may request, orally or in writing, informal expedited review by the Chair.

(1) The Chair shall complete the expedited review provided for by this paragraph within two (2) days after his or her receipt of a timely request.

(2) The Chair shall, within two (2) days after the expedited review provided for by this paragraph:

* * * * *

(3) Whether or not a respondent seeks informal expedited review under this paragraph, within thirty (30) days after the Chair serves an order of temporary closure the respondent may appeal the order to the Commission under part 577 of this chapter. Otherwise, the order shall remain in effect unless rescinded by the Chair for good cause.

■ 8. Add § 573.5 to read as follows:

§ 573.5 When does an enforcement action become final agency action?

An enforcement action shall become final agency action and a final order of the Commission when:

(a) A respondent fails to appeal the enforcement action as provided for in part 577 of this chapter and does not enter into a settlement agreement resolving the matter in its entirety; or

(b) A respondent enters into a settlement agreement resolving the matter in its entirety at any time after the issuance of the enforcement action.

Dated: July 31, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2012–19163 Filed 8–8–12; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0656]

Annual Marine Events in the Eighth Coast Guard District, Sabine River; Orange, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce Special Local Regulations for the S.P.O.R.T. Power Boat Neches River in Orange, TX from 3 p.m. on September 21, 2012, through 6 p.m. on September 23, 2012. This action is necessary to provide for the safety of the participants, crew, spectators,

participating vessels, non-participating vessels and other users of the waterway. During the enforcement period no person or vessel may enter the zone established by the Special Local Regulation without permission of the Captain of the Port (COTP) Port Arthur or his designated on-scene Patrol Commander.

DATES: The regulation in 33 CFR 100.801(60) will be enforced from 3 p.m. to 6 p.m. on September 21, 2012; and from 9 a.m. to 6 p.m. on September 22 and 23, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of enforcement, call or email Mr. Scott Whalen. U.S. Coast Guard Marine Safety Unit Port Arthur, TX; telephone 409–719–5086, email *scott.k.whalen@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce Special Local Regulation for the annual SPORT Boat Races in 33 CFR 100.801(60) on September 21, 2012, from 3 p.m. to 6 p.m. and on September 22 and 23, 2012 from 9 a.m. to 6 p.m.

Under the provisions of 33 CFR 100.801, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port or his designated on-scene Patrol Commander. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede participants or official patrol vessels. The Coast Guard may be assisted by other federal, state or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 100.801 and 33 U.S.C. 1233. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via Local Notice to Mariners, Marine Information Broadcasts, and Marine Safety Information Bulletins.

If the Captain of the Port or his designated on-scene Patrol Commander determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: July 18, 2012.

G.J. Paitl,

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

[FR Doc. 2012–19485 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2012–0482]

RIN 1625–AA08

Special Local Regulations for Marine Events, Wrightsville Channel; Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a Special Local Regulation for the ''Swim Harbor Island'' swim event, to be held on the waters adjacent to and surrounding Harbor Island in Wrightsville Beach, North Carolina. This Special Local Regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic on the Atlantic Intracoastal Waterway within 550 yards north and south of the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina, during the swim event.

DATES: This rule is effective on September 29, 2012 and will be enforced from 7 a.m. until 11 a.m. on September 29, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0482]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email BOSN4 Joseph M. Edge, Coast Guard Sector North Carolina, Coast Guard; telephone 252–247–4525, email *Joseph.M.Edge@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On June 13, 2012 a Notice of Proposed Rule Making (NPRM) was published in 77 FR 35321. We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

On September 29, 2012 from 7 a.m. to 11 a.m., Without Limits Coaching will sponsor ''Swim Harbor Island'' on the waters adjacent to and surrounding Harbor Island in Wrightsville Beach, North Carolina. The swim event will consist of up to 200 swimmers swimming a 3.5 mile course around Harbor Island in Wrightsville Beach, North Carolina. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during this event.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone on the navigable waters of the Atlantic Intracoastal Waterway 550 yards north and south of the U.S. 74/76 Bascule Bridge, mile 283.1, latitude 34°13′06″ North, longitude 077°48′44″ West, at Wrightsville Beach, North Carolina. Participants will enter the Atlantic Intracoastal Waterway at the Dockside Marina on the west bank of the Atlantic Intracoastal Waterway south of the U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina, and swim north and clockwise around Harbor Island returning to the Dockside Marina. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during this event.

In an effort to enhance safety of event participants, the area within the proposed safety zone, will remain closed during the event on September 29, 2012 from 7 a.m. to 11 a.m. In the interest of participant safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders Although this regulation will restrict access to the area, the effect of this rule will not be significant because the regulated area will be in effect for a limited time, from 7 a.m. to 11 a.m., on September 29, 2012. The Coast Guard will provide advance notification via maritime advisories so mariners can adjust their plans accordingly. The regulated area will apply only to the section of Atlantic Intracoastal Waterway in the immediate vicinity of U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina. Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz).

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the specified portion of Atlantic Intracoastal Waterway from 7 a.m. to 11 a.m. on September 29, 2012.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule will only be in effect for four hours from 7 a.m. to 11 a.m. The regulated area applies only to the section of Atlantic Intracoastal Waterway in the vicinity of the U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina. Vessel traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the swim course. The Patrol Commander will allow non-participating vessels to transit the event area once all swimmers are safely clear of navigation channels and vessel traffic areas. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security

Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. This special local regulation is necessary to provide for the safety of the general public and event participants from potential hazards associated with movement of vessels near the event area. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35T05–0482 to read as follows:

§ 100.35T05–0482, Special Local Regulations for Marine Events, Wrightsville Channel; Wrightsville Beach, NC.

(a) *Regulated area.* The following location is a regulated area: All waters of the Atlantic Intracoastal Waterway within 550 yards north and south of the U.S. 74/76 Bascule Bridge, mile 283.1, latitude 34°13′06″ North, longitude 077°48′44″ West, at Wrightsville Beach, North Carolina. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all vessels participating in the ''Swim Harbor Island'' swim event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(4) *Spectator* means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) *Special local regulations.* (1) The Coast Guard Patrol Commander will control the movement of all vessels in the vicinity of the regulated area. When hailed or signaled by an official patrol vessel, a vessel approaching the regulated area shall immediately comply with the directions given. Failure to do so may result in termination of voyage and citation for failure to comply.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any support vessel participating in the event, at any time it is deemed necessary for the protection of life or property. The Coast Guard may be assisted in the patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(3) Only participants and official patrol vessels are allowed to enter the regulated area. Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port North Carolina or his designated representative by telephone at (910) 343–3882 or on VHF–FM marine band radio channel 16.

(4) All Coast Guard vessels enforcing the regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) and channel 22 (157.1 MHz). The Coast Guard will issue marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) *Enforcement period.* This section will be enforced from 7 a.m. to 11 a.m. on September 29, 2012.

Dated: July 30, 2012.

A. Popiel,

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

[FR Doc. 2012–19483 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0700]

RIN 1625–AA08

Special Local Regulation; Port Huron Offshore Gran Prix, St. Clair River; Port Huron, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the St. Clair River, Port Huron, Michigan. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after the Port Huron Offshore Gran Prix boat race. This special local regulation will establish restrictions upon, and control movement of, vessels in a portion of the St. Clair River. During the enforcement period, no person or vessel may enter the regulated area without permission of the Captain of the Port.

DATES: This rule is effective from 11:30 a.m. on August 11, 2012, until 4 p.m. on August 12, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0700]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box, and click ''Search.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, email *Adrian.F.Palomeque@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators, participants and vessels from the hazards associated with power boat races, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for 30-day notice period run would be impracticable and contrary to the public interest.

B. Basis and Purpose

Between 11:30 a.m. and 3:30 p.m. on August 11, 2012, and 8:30 a.m. until 4 p.m. on August 12, 2012, the OPA Racing LLC is holding powerboat races that will require the immediate area to be clear of all vessel traffic. The Captain of the Port Detroit has determined powerboat races in close proximity to watercraft and infrastructure pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, powerboats traveling at high speeds, and large numbers of spectators in close proximity to the water could easily result in serious injuries or fatalities.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Detroit has determined that a special local regulation is necessary to ensure the safety of spectators, vessels, and participants. This special local regulation will be effective from 11:30 a.m. on August 11, 2012 until 4 p.m. on August 12, 2012 and enforced from 11:30 a.m. to 3:30 p.m. on August 11, 2012, and 8:30 a.m. until 4 p.m. on August 12, 2012. This regulated area will encompass all waters of the St. Clair River, beginning at a point on land at 42°58′50″ N, 082°25′12″ W; extending east to the international border at 42°58′50″ N, 082°24′59″ W; extending south along the international border, in U.S. waters of the St. Clair River, to position 42°57′05″ N, 082°25′47″ W; extending west to position 42°57′05″ N, 082°26′02″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

Entry into, transiting, or anchoring within the regulated area is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The regulated navigation area created by this rule will be relatively small and enforced for relatively short time. Also, the regulated navigation area is designed to minimize its impact on navigable waters. Furthermore, the regulated navigation area has been designed to allow vessels to transit through it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the regulated navigation area when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in this portion of the St. Clair River near Port Huron, MI between 11:30 a.m. until 3:30 p.m. on August 11, 2012, and 8:30 a.m. until 4 p.m. on August 12, 2012.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: This regulated area would be activated, and thus subject to enforcement, for only 4 hours on August 11, 2012, and 7.5 hours on August 12, 2012. Traffic may be allowed to pass through the regulated area with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before enforcement of the regulated area begins, we will issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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

about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Unfunded Mandates Reform Act

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

7. Taking of Private Property

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

8. Civil Justice Reform

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

9. Protection of Children

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

10. Indian Tribal Governments

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

11. Energy Effects

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

12. Technical Standards

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

13. Environment

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.T09–0700 to read as follows:

§ 100.T09–0700 Special Local Regulation; Port Huron Offshore Gran Prix, Port Huron, MI.

(a) Location. The regulated area will encompass all waters of the St. Clair River, Port Huron, Michigan, beginning at a point on land at 42°58′50″ N, 082°25′12″ W; extending east to the international border at 42°58′50″ N, 082°24′59″ W; extending south along the international border, in U.S. waters of the St. Clair River, to position 42°57′05″ N, 082°25′47″ W; extending west to position 42°57′05″ N, 082°26′02″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) Enforcement Period. This special local regulation will be enforced from 11:30 a.m. to 3:30 p.m. on August 11, 2012, and 8:30 a.m. until 4 p.m. on August 12, 2012.

(1) *(c) Regulations. (1)* In accordance with the general regulations in section 100.901 of this part, entry into, transiting, or anchoring within this regulated area is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative.

(2) This regulated navigation area is closed to all vessel traffic, except as may be permitted by the Captain of the Detroit or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Detroit is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators desiring to enter or operate within the regulated area shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. The Captain of the Port Detroit or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the Captain of the Port Detroit, or his on-scene representative.

Dated: July 30, 2012.

J.E. Ogden,

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

[FR Doc. 2012–19484 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0724]

Drawbridge Operation Regulations; Cheesequake Creek, Morgan, South Amboy, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Route 35 Bridge across Cheesequake Creek, mile 0.0, at Morgan, South Amboy, New Jersey. The deviation allows the bridge to remain in the closed position for an hour and a half to facilitate a public event, the Rolling Thunder Freedom Ride.

DATES: This deviation is effective from 12 p.m. through 1:30 p.m. on September 16, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0724 and are available online at *www.regulations.gov,* inserting USCG–2012–0724 in the ''Keyword'' and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The Route 35 Bridge, across the Cheesequake Creek at mile 0.0, at Morgan, South Amboy, New Jersey, has a vertical clearance in the closed position of 25 feet at mean high water and 30 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.709.

The Coast Guard received a request from the owner of the bridge, New Jersey Department of Transportation, to allow the bridge to remain in the closed position for an hour and a half, 12 p.m. through 1:30 p.m., on September 16, 2012, to facilitate the Rolling Thunder Freedom Ride, public event.

Vessels that can pass under the draw in the closed position may do so at all times. There are no alternate routes available for vessel traffic. The bridge can be opened in the event of an emergency.

Under this temporary deviation the Route 35 Bridge may remain in the closed position between 12 p.m. and 1:30 p.m. on September 16, 2012.

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

Dated: July 31, 2012.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2012–19481 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0684]

Drawbridge Operation Regulations; Cheesequake Creek, South Amboy, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Route 35 Bridge across Cheesequake Creek, mile 0.0, at South Amboy, New Jersey. The deviation allows the bridge to remain in the closed position from December through March to facilitate bridge rehabilitation construction.

DATES: This deviation is effective from December 1, 2012 through March 31, 2013.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0684 and are available online at *www.regulations.gov,* inserting USCG–2012–0684 in the ''Keyword'' and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The Route 35 Bridge, across the Cheesequake Creek at mile 0.0, at Morgan, South Amboy, New Jersey, has a vertical clearance in the closed position of 25 feet at mean high water and 30 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.709.

The Coast Guard published a previous temporary deviation (76 FR 35349) in the **Federal Register** that allowed the bridge to remain closed from December 1, 2011 through March 31, 2012, to facilitate phase one of a bridge rehabilitation project at the Route 35 Bridge. The first temporary deviation achieved successful results and no problems or complaints were received from the mariners that normally transit Cheesequake Creek.

On June 20, 2012, the owner of the bridge, the New Jersey Department of Transportation, requested a second temporary deviation to facilitate completion of phase two of the bridge rehabilitation construction at the bridge.

The Coast Guard published an article in the Local Notice to Mariners on June 28, 2012, concerning the phase two bridge closure, with a request for public comment due on or before July 16, 2012. No comments were received.

Under this second temporary deviation the Route 35 Bridge may remain in the closed position from December 1, 2012 through March 31, 2013. Vessels that can pass under the draw in the closed position may do so at all times.

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

Dated: July 31, 2012.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2012–19486 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0662]

RIN 1625–AA00

Safety Zone, Mississippi River, Mile Marker 291 to 295

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Lower Mississippi River, extending the entire width of the river from Mile Marker (MM) 291.0 to MM 295.0. This safety zone is needed to protect vessel traffic from the safety hazards associated with dredging operations being conducted in the area by the Army Corps of Engineers. When vessels are allowed by the Captain of the Port (COTP), entry into this zone is restricted to one way traffic unless authorized by the (COTP) New Orleans or a designated representative. Any full closures will be announced via Broadcast Notice to Mariners.

DATES: Effective Date: This rule is effective in the CFR on August 9, 2012, through 7 a.m. September 1, 2012 unless the Army Corps of Engineers dredging operations are completed earlier. This rule is effective with actual notice for purposes of enforcement from 7 a.m. July 11, 2012, through 7 a.m. September 1, 2012 unless the Army Corps of Engineers dredging operations are completed earlier.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0662]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Chris Norton, U.S. Coast Guard; telephone (225) 298–5400, email *Christopher.R.Norton@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
MM Mile Marker
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

A temporary safety zone is needed to establish periods of complete closure and a one way traffic pattern due to dredging operations in the vicinity of Tunica Bend, Lower Mississippi River Mile Markers 291.0 to 295.0. There will be no passing, meeting, or overtaking of any vessel in the channel.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard received notice of two groundings occurring on July 5, 2012, and July 9, 2012, at MM 293.3 LMR. Due to the low water and the width of navigational channel the Army Corps of Engineers will be conducting dredging operations in the area. It would be impracticable and contrary to public interest to complete the NPRM process for this rule. Due to the recent groundings and low water, immediate action is necessary to protect vessel traffic from the hazards associated with transiting this area.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause also exists for making this rule effective less than 30 days after publication in the **Federal Register**. This temporary safety zone is needed to allow the Army Corps of Engineers to conduct dredging operations to prevent further possible groundings due to low water. Delaying the effective date of this safety measure is contrary to the public interest because immediate action is necessary to protect vessel traffic from the hazards associated with transiting this area.

B. Basis and Purpose

On July 5, 2012, and July 9, 2012, the Coast Guard received reports of two groundings at MM 293.3 LMR in the vicinity of Tunica Bend. To prevent groundings of vessels due to the low water the Army Corps of Engineers will be conducting dredging operations. The river will be restricted to one way vessel traffic from MM 291 to MM 295 LMR. The Coast Guard determined the safety zone is needed to protect vessel traffic transiting in the vicinity of Tunica Bend.

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones. To safeguard persons and property from the hazards associated with dredging operations performed on a waterway, the COTP New Orleans will establish a safety zone on the LMR from MM 291.0 to MM 295.0, 7 a.m. July 11, 2012, until 7 a.m. September 1, 2012.

C. Discussion of Comments, Changes and the Final Rule

The Captain of the Port New Orleans will implement a Safety Zone on the LMR extending the entire width of the river from MM 291.0 to MM 295.0. When vessels are allowed by the Captain of the Port (COTP), entry into this zone is restricted to one way traffic unless authorized by the COTP New Orleans or a designated representative. Any full closures will be announced via Broadcast Notice to Mariners.

The Captain of the Port New Orleans can be reached at 225–281–2875. The U.S Government Dustpan Dredge JADWIN can be contacted at 601–631–5795 or Channel 67. Mariners will be subject to requirements that will be listed in Marine Safety Information Bulletins from 7 a.m. on July 11, 2012 until 7 a.m. on September 1, 2012, unless the Army Corps of Engineers dredging operations are completed earlier.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

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

This rule establishes additional safety restrictions necessary for transit on the LMR from MM 291.0 to MM 295.0, in the vicinity of Tunica Bend. These additional safety restrictions do not prevent safe transit through the area. Due to its duration and limited scope, this rule does not pose a significant regulatory impact.

Additionally, notifications of this rule's effective dates and times and any changes to the rule will be made to the marine community through Marine Safety Information Bulletins (MSIB) or Broadcast Notices to Mariners (BNM).

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small

entities: the owners or operators of vessels intending to transit the LMR between MM 291.0 and MM 295.0 from 7 a.m. on July 11, 2012, until 7 a.m. on September 1, 2012. This safety zone will not have a significant impact on a substantial number of small entities because vessels are still able to transit the area under the established safety restrictions. Additionally, notifications of the safety restrictions and any changes will be made to the marine community through Marine Safety Information Bulletins (MSIB) or Broadcast Notices to Mariners (BNM).

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes a temporary safety zone on the Mississippi River to protect vessel traffic from potential safety hazards associated with the Army Corps of Engineers dredging operations. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T08–0622 is added to read as follows:

§ 165.T08–0622 Safety Zone; Mississippi River, Mile Marker 291 to 295.

(a) *Location.* The following area is a safety zone: All waters of the Lower Mississippi River (LMR) beginning at mile marker (MM) 291.0 and ending at MM 295.0, extending the entire width of the river, in the vicinity of Tunica Bend.

(b) *Effective Date.* This section is effective from 7 a.m. July 11, 2012, until

7 a.m. September 1, 2012, unless the Army Corps of Engineers dredging operations are completed earlier. This rule is effective with actual notice for purposes of enforcement beginning at 7 a.m. on July 11, 2012.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, when vessels are allowed by the Captain of the Port (COTP), entry into this zone is limited to one way traffic unless vessels are otherwise authorized by the Captain of the Port New Orleans or designated representative.

(2) Persons or vessels requiring entry into or passage through this zone must utilize the one way traffic pattern or otherwise request permission from the Captain of the Port New Orleans or a designated representative. The Captain of the Port New Orleans can be reached at (504) 365–2200.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port New Orleans and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard assigned to units under the operational control of Sector New Orleans.

(d)*Informational Broadcasts.* The Captain of the Port, New Orleans or a designated representative will inform the public through Broadcast Notices to Mariners and/or Marine Safety Information Bulletins of the safety zone, any closures, implementation of one way traffic patterns, and tow sizes or draft restrictions until the river is fully reopened.

Dated: July 11, 2012.

P.W. Gautier,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2012–19482 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 6

[Docket No. PTO–T–2012–0027]

RIN 0651–AC80

International Trademark Classification Changes

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') issues a final rule to incorporate classification changes adopted by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (''Nice Agreement''). These changes became effective January 1, 2012, and are listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (10th ed., 2011), which is published by the World Intellectual Property Organization (''WIPO''). In addition, the USPTO is amending some punctuation and grammar to conform to what appears in the Nice Agreement.

DATES: This rule is effective on August 9, 2012.

FOR FURTHER INFORMATION CONTACT: Cynthia C. Lynch, Office of the Deputy Commissioner for Trademark Examination Policy, by telephone at (571) 272–8742.

SUPPLEMENTARY INFORMATION: The USPTO is revising 37 CFR 6.1 to incorporate classification changes and modifications that became effective January 1, 2012, as listed in the International Classification of Goods and Services for the Purposes of the Registration of Marks (10th ed., 2011), published by WIPO. These revisions have been incorporated into the Nice Agreement. As a signatory to the Nice Agreement, the United States adopts these revisions pursuant to Article 1. In addition, the USPTO is revising punctuation and grammar so that it will conform to what appears in the Nice Agreement.

The following changes are noted:

Class 5 is amended to change ''dietetic substances adapted for medical use,'' to ''dietetic food and substances adapted for medical use,'' and to add ''dietary supplements for humans and animals;'' before ''plasters.''

Class 7 is amended to insert ''automatic vending machines'' after the word ''eggs.''

Class 9 is amended to insert ''compact discs, DVDs and other digital recording media;'' after ''discs;'' and to insert ''computer software;'' after ''computers.'' ''Automatic vending machines and'' is deleted from Class 9; automatic vending machines are classified in Class 7.

Class 18 is amended to replace ''umbrellas, parasols and walking sticks'' with ''umbrellas and parasols; walking sticks.''

Class 24 is amended to replace ''bed and table covers'' with ''bed covers; table covers.''

Classes 30 and 31 are amended to reorder the manner in which the goods are listed in the class.

Class 32 is amended to replace ''non-alcoholic drinks; fruit drinks'' with ''non-alcoholic beverages; fruit beverages.''

Rulemaking Requirements

Administrative Procedure Act: The amendments in this final rule are procedural in nature as they only reorganize the international classifications of goods and services and modify the form of wording. The reorganization and modification have been established by the Committee of Experts of the Nice Union and have been promulgated in the volume entitled International Classification of Goods and Services for the Purposes of the Registration of Marks (10th ed., 2011). Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A), or any other law. Furthermore, pursuant to 5 U.S.C. 553(b)(B), notice and an opportunity for public comment are unnecessary since the amendments are required by the Nice Agreement, to which the United States is a signatory.

Regulatory Flexibility Act: The final rule involves rules of agency practice and procedure. As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

Executive Order 12866: This rule has been determined not to be significant for purposes of Executive Order 12866 (Sept. 3, 1993).

Executive Order 13563: The USPTO has complied with Executive Order 13563. Specifically, the USPTO has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected prior to issuing a notice of proposed rulemaking, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes, to the extent applicable.

Executive Order 13132: This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the United States Patent and Trademark Office will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this notice is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

Paperwork Reduction Act: This final rule does not involve information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 37 CFR Part 6

Administrative practice and procedure, Trademarks, Classification.

For the reasons stated in the preamble and under the authority contained in 15 U.S.C. 1112, 1123 and 35 U.S.C. 2, as amended, the USPTO is amending part 6 of title 37 as follows:

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

■ 1. The authority citation for 37 CFR part 6 continues to read as follows:

Authority: 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

■ 2. Revise § 6.1 to read as follows:

§ 6.1 International schedule of classes of goods and services.

Goods

1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.

5. Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical use, food for babies; dietary supplements for humans and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs; automatic vending machines.

8. Hand tools and implements (hand-operated); cutlery; side arms; razors.

9. Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.

11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosives; fireworks.

14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.

15. Musical instruments.

16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks.

17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas and parasols; walking sticks; whips, harness and saddlery.

19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn,

bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

21. Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

23. Yarns and threads, for textile use.

24. Textiles and textile goods, not included in other classes; bed covers; table covers.

25. Clothing, footwear, headgear.

26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk and milk products; edible oils and fats.

30. Coffee, tea, cocoa and artificial coffee; rice; tapioca and sago; flour and preparations made from cereals; bread, pastry and confectionery; ices; sugar, honey, treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice.

31. Grains and agricultural, horticultural and forestry products not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

32. Beers; mineral and aerated waters and other non-alcoholic beverages; fruit beverages and fruit juices; syrups and other preparations for making beverages.

33. Alcoholic beverages (except beers).

34. Tobacco; smokers' articles; matches.

Services

35. Advertising; business management; business administration; office functions.

36. Insurance; financial affairs; monetary affairs; real estate affairs.

37. Building construction; repair; installation services.

38. Telecommunications.

39. Transport; packaging and storage of goods; travel arrangement.

40. Treatment of materials.

41. Education; providing of training; entertainment; sporting and cultural activities.

42. Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

43. Services for providing food and drink; temporary accommodation.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

45. Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.

Dated: August 3, 2012.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2012–19568 Filed 8–8–12; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0228; FRL–9711–1]

Approval and Promulgation of State Implementation Plans; Hawaii; Infrastructure Requirements for the 1997 8-Hour Ozone and the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving in part and disapproving in part a State Implementation Plan (SIP) revision submitted by the state of Hawaii pursuant to the requirements of Section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 1997 8-hour ozone national ambient air quality standards (NAAQS) and the 1997 and 2006 NAAQS for fine particulate matter ($PM_{2.5}$).

DATES: *Effective Date:* This final rule is effective on October 9, 2012.

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2012–0228. The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Dawn Richmond, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, (415) 972–3207, *richmond.dawn@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

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I. Background
II. Final Action
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I. Background

On April 12, 2012 (77 FR 21913), EPA proposed to approve in part and disapprove in part a SIP revision submitted by Hawaii Department of Health (HDOH) on December 14, 2011 to address the infrastructure requirements of CAA section 110(a)(2) for the 1997 8-hour ozone NAAQS and the 1997 and 2006 NAAQS for $PM_{2.5}$ (''2011 Hawaii Infrastructure SIP''). The rationale supporting EPA's action, including the scope of infrastructure SIPs in general, is explained in that Notice of Proposed Rulemaking (NPR) and the associated technical support document (TSD) and will not be restated here. The TSD is available online at *http://www.regulations.gov*, Docket ID number EPA–R09–OAR–2012–0228. No public comments were received on the NPR.

II. Final Action

EPA is approving in part and disapproving in part the 2011 Hawaii Infrastructure SIP. EPA is approving the 2011 Hawaii Infrastructure SIP with respect to the following requirements:

- Section 110(a)(2)(A): Emission limits and other control measures.
- Section 110(a)(2)(B): Ambient air quality monitoring/data system.
- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new stationary sources (minor New Source Review (NSR) program only).
- Section 110(a)(2)(D)(i)(I): Interstate transport (significant contribution and interference with maintenance).
- Section 110(a)(2)(E): Adequate resources and authority, conflict of

interest, and oversight of local governments and regional agencies.

- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency episodes.
- Section 110(a)(2)(H): SIP revisions.
- Section 110(a)(2)(J) (in part): Public notification.
- Section 110(a)(2)(K): Air quality modeling and submission of modeling data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

In addition, we are approving into the SIP as non-regulatory materials the statutory provisions that HDOH included as part of the 2011 Hawaii Infrastructure SIP.

We are disapproving the 2011 Hawaii Infrastructure SIP with respect to the following infrastructure SIP requirements:

- Section 110(a)(2)(C) (in part): Program for enforcement of control measures and regulation of new stationary sources (permit program as required in part C of title I of the Act).
- Section 110(a)(2)(D)(i)(II): Interstate transport—prevention of significant deterioration and visibility protection.
- Section 110(a)(2)(D)(ii): Interstate pollution abatement and international air pollution.
- Section 110(a)(2)(J) (in part): Consultation with government officials and Prevention of Significant Deterioration (PSD).

As explained in the NPR and TSD, our disapproval of these elements and sub-elements is compelled by the absence of an approvable SIP revision from Hawaii that meets the PSD requirements of sections 160 through 165 of the CAA.[1] In addition, our disapproval of Section 110(a)(2)(D)(i)(II) is compelled by the lack of approvable SIP revisions to address reasonably attributable visibility impairment (RAVI) and regional haze affecting mandatory Class I areas.[2] Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of part D, title I of the CAA (CAA sections 171–193) or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP Call) starts a sanctions clock. The 2011 Hawaii Infrastructure SIP was not submitted to meet either of these requirements. Therefore, this action does not trigger sanctions.

In addition, these deficiencies have previously been addressed through promulgation of a PSD federal implementation plan (FIP) (43 FR 26410, June 19, 1978, as amended at 45 FR 52741, August 7, 1980; 68 FR 11322, March 10, 2003; 68 FR 74488, December 24, 2003) and a FIP addressing RAVI (50 FR 28553, July 12, 1985, as amended at 52 FR 45137, November 24, 1987). EPA has proposed a FIP to address regional haze in Hawaii (77 FR 31692, May 29, 2012) and is required to take final action on this FIP (or fully approve a Regional Haze SIP) by September 15, 2012.[3] Therefore, this disapproval does not trigger any new FIP obligations.

As explained in the NPR, this action does not address section 110(a)(2)(C) to the extent it refers to permit programs required under part D (nonattainment NSR), or section 110(a)(2)(I), which pertains to the nonattainment planning requirements of part D of Title I of the CAA.

III. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals and partial approvals/partial disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this partial approval/partial disapproval action does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the partial approval/partial disapproval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Executive Order 13132, Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies

[1] See 40 CFR 52.632.

[2] See 40 CFR 52.633 (reasonably attributable visibility impairment) and 74 FR 2392 (January 15, 2009) (regional haze).

[3] See Consent Decree entered March 30, 2012 in *National Parks Conservation Association* v. *Jackson,* Case 1:11–cv–01548–ABJ (D.D.C.). We have placed a copy of the consent decree in the docket for this action.

that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a State rule implementing a Federal standard.

H. Executive Order 13211, Actions that Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this rulemaking. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the Clean Air Act. Accordingly, this action merely approves certain State requirements for inclusion into the SIP under CAA section 110 and subchapter I, part D and disapproves others, and will not in-and-of itself create any new requirements. Accordingly, it 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.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 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 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**. 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. section 804(2). This rule will be effective on October 9, 2012.

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 9, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 26, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR Part 52 continues to read as follows:

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

Subpart M—Hawaii

■ 2. Amend § 52.620, the table in paragraph (e) by adding an entry at the end of the table for Hawaii Infrastructure State Implementation Plan Revision 1997 Ozone, and 1997 and 2006 Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards. The added text reads as follows:

§ 52.620 Identification of plan.

* * * * *

(e) EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures.

EPA-APPROVED HAWAII NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* *	*		* *	* *
Hawaii Infrastructure State Implementation Plan Revision 1997 Ozone, and 1997 and 2006 Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards.	Statewide	12/14/12 ..	8/9/12, [Insert page number where the document begins].	Excluding all regulations included in the submission, as these *were already addressed in separate actions as* listed in table (c) above. This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(I), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2012–19301 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2011–0956; FRL–9696–2]

Determination of Failure To Attain the One-Hour Ozone Standard by 2007, Determination of Current Attainment of the One-Hour Ozone Standard, Determinations of Attainment of the 1997 Eight-Hour Ozone Standards for the New York-Northern New Jersey-Long Island Nonattainment Area in Connecticut, New Jersey and New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: This document corrects an error in the regulatory language of a final rule pertaining to Clean Data determinations for the State of New Jersey published June 18, 2012. The action announced our approval of four separate and independent determinations related to the New York-Northern New Jersey-Long Island (NY–NJ–CT) one-hour and 1997 eight-hour ozone nonattainment areas. This action corrects erroneous paragraph designations in the June 18, 2012 final rule.

DATES: This correction is effective on August 9, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R02–OAR–2011–0956. 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, e.g., 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 at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212–637–4249.

FOR FURTHER INFORMATION CONTACT: Paul Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–4249.

SUPPLEMENTARY INFORMATION: On June 18, 2012, 77 FR 36163, EPA published a final rulemaking action announcing our approval of four separate and independent determinations related to the New York-Northern New Jersey-Long Island (NY–NJ–CT) one-hour and 1997 eight-hour ozone nonattainment areas. In that document, § 52.1576 of title 40 of the Code of Federal Regulations (CFR) was amended, but the amendatory instructions inadvertently designated an existing paragraph incorrectly as (a) and incorrectly reserved paragraph (b). The intent of the rule was to retain the amendments as promulgated on May 16, 2012, 77 FR 28782 and add two new paragraphs (c) and (d) pursuant to the June 18, 2012, 77 FR 36163. This action corrects the erroneous paragraph designations. For the convenience of the reader, and to ensure it reads correctly, the entire § 52.1576 is set out in the regulatory text of this document.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Statutory and Executive Order Reviews

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

imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 9, 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, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 31, 2012.

Judith A. Enck,

Regional Administrator, Region 2.

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

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

■ 2. Section 52.1576 is revised to read as follows:

§ 52.1576 Determinations of attainment.

(a) Based upon EPA's review of the air quality data for the 3-year period 2008 to 2010, EPA determined that Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE 8-hour ozone moderate nonattainment area (the Philadelphia Area) attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of June 15, 2011. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia Area nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

(b) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Philadelphia-Wilmington, PA–NJ–DE fine particle ($PM_{2.5}$) nonattainment area attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia-Wilmington, PA–NJ–DE $PM_{2.5}$ nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

(c) Based upon EPA's review of the air quality data for the three-year period 2005 to 2007, EPA determined, as of June 18, 2012, that the New York-Northern New Jersey-Long Island (NY–NJ–CT) one-hour ozone nonattainment area did not meet its applicable one-hour ozone attainment date of November 15, 2007. Separate from and independent of this determination, based on 2008–2010 complete, quality-assured ozone monitoring data at all monitoring sites in the area, and data for 2011, EPA determined, as of June 18, 2012, that the NY–NJ–CT one-hour ozone nonattainment area has attained the one-hour ozone standard.

(d) Based upon EPA's review of complete, quality-assured and certified air quality data for the three-year period 2007 to 2009, and data for 2011, EPA determined, as of June 18, 2012, that the New York-Northern New Jersey-Long Island (NY–NJ–CT) eight-hour ozone moderate nonattainment area attained the 1997 eight-hour ozone NAAQS by the applicable attainment date of June 15, 2010. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. EPA also determined that the NY–NJ–CT nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

[FR Doc. 2012–19570 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0311; FRL–9687–3]

Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Sacramento Metropolitan Air Quality Management District portion of the California State Implementation Plan (SIP). This revision concerns the definition of volatile organic compound (VOC). We are approving a local rule that helps regulate VOCs under the Clean Air Act, as amended (CAA or the Act).

DATES: This rule is effective on October 9, 2012 without further notice, unless EPA receives adverse comments by September 10, 2012. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0311, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, EPA Region IX, (415) 947–4120, *allen.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule we are approving with the date that it was amended by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted/amended	Submitted
Sacramento	101	General Provisions and Definitions	10/27/11	02/23/12

On March 13, 2012, EPA determined that the submittal for SMAQMD Rule 101 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved an earlier version of Rule 101 into the SIP on March 19, 1999 (adopted October 27, 1998).

C. What is the purpose of the submitted rule revision?

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. This rule was developed as part of the local agency's program to control these pollutants.

Sacramento Rule 101, General Provisions and Definitions, is being amended to update the Exempt Compounds list to conform to the Exempt Compounds list of the EPA.

EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating this rule?

This rule describes administrative provisions and definitions that support emission controls found in other local agency requirements. In combination with the other requirements, these rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). EPA policy that we used to evaluate enforceability requirements consistently includes the Bluebook (''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988) and the Little Bluebook (''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001).

B. Does this rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do

not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by September 10, 2012, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on October 9, 2012. This will incorporate this rule into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 9, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: May 10, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 [AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(411)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(411) * * *

(i) * * *

(A) * * *

(*2*) Rule 101, ''General Provisions and Definitions,'' amended on October 27, 2011.

[FR Doc. 2012–19315 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0332; FRL–9687–8]

Revisions to the California State Implementation Plan, Mojave Desert, Northern Sierra, Sacramento Metropolitan and San Diego Air Pollution Agencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD), Northern Sierra

Air Quality Management District (NSAQMD), Sacramento Metropolitan Air Quality Management District (SMAQMD) and San Diego County Air Pollution Control District (SDCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from automotive parts and component, automobile refinishing, metal parts and products, and miscellaneous coating and refinishing operations. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on October 9, 2012 without further notice, unless EPA receives adverse comments by September 10, 2012. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0332, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Adrianne Borgia, EPA Region IX, (415) 972–3576, *borgia.adrianne@epa.gov*.

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C. EPA recommendations to further improve the rules.
D. Public Comment and Final Action
III. Statutory and Executive Order Reviews

I. The State' Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
NSAQMD	228	Surface Coating of Metal Parts and Products	04/25/11	09/27/11
SDCAPCD	66.1	Miscellaneous Coating	02/24/10	07/20/10
MDAQMD	1116	Automotive Refinishing	08/23/10	04/05/11
SMAQMD	459	Automotive, Mobile Equipment and Associated Parts and Components Coating Operations.	08/25/11	02/23/12

B. Are there other versions of these rules?

We approved an earlier version of MDAQMD Rule 1116 into the SIP on April 10, 2000 (65 FR 18901). No other version of SDCAPCD Rule 66.1 or Northern Sierra Rule 228 has been submitted, although EPA previously approved SDCAPCD Rule 66. An earlier version of SMAQMD Rule 459 was approved into the SIP on November 13, 1998 (63 FR 63410).

C. What is the purpose of the submitted rules?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions by limiting VOC content in coatings used for metal parts and products, miscellaneous uses, automobile refinishing processes and automotive equipment, parts and compounds. In addition, the rules also limit emission of VOCs by regulating organic solvent cleaning, storage and disposal relating to the coating operations. EPA's technical support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), and must not relax existing requirements (see sections 110(1) and 193). In addition, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate and above ozone nonattainment areas. Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations'' EPA, May 25, 1988 (the Bluebook),
2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies'' EPA, Region 9, August 21, 2001 (the Little Bluebook),
3. ''Suggested Control Measure for Automotive Coatings'' CARB, October 2005,

4. ''Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings,'' EPA (EPA–453/R–08–006) September 2008,
5. ''Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings,'' EPA, (EPA–453/R–08–003), September 2008,
6. ''Control Techniques Guidelines for Control of Volatile Organic Emissions From Existing Stationary Sources,'' Volume I: Control Methods for Surface Coating Operations (EPA–450/2–76–028, 11/76), and
7. ''Control Techniques Guidelines Control of Volatile Organic Emissions From Solvent Metal Cleaning'', (EPA–450/2–77–022, 11/77).

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rules

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules.

D. Public comment and final action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by September 10, 2012, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on October 9, 2012. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 9, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b) (2)).

List of Subjects in 40 CFR Part 52

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

Dated: May 22, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

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

PART 52 [AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(381)(i) (J), (c)(388)(i)(F), (c)(404)(i)(B), and (c)(411) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(381) * * *

(i) * * *

(J) San Diego Air Pollution Control District.

(*1*) Rule 66.1, ''Miscellaneous Surface Coating Operations and Other Processes Emitting Volatile Organic Compounds,'' adopted on February 24, 2010.

* * * * *

(388) * * *

(i) * * *

(F) Mojave Desert Air Quality Management District.

(*1*) Rule 1116, ''Automotive Refinishing Operations,'' amended on August 23, 2010.

* * * * *

(404) * * *

(i) * * *

(B) Northern Sierra Air Quality Management District.

(*1*) Rule 228, ''Surface Coating of Metal Parts and Products,'' amended on April 25, 2011.

* * * * *

(411) New and amended regulations for the following APCDs were submitted on February 23, 2012.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 459, ''Automotive, Mobile Equipment, and Associated Parts and Components Coating Operations,'' amended August 25, 2011.

[FR Doc. 2012–19318 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0637; FRL–9357–1]

Paraquat Dichloride; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of paraquat dichloride (hereafter in this document referred to solely as paraquat) in or on multiple commodities which are identified and discussed later in this document. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 9, 2012. Objections and requests for hearings must be received on or before October 9, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2010–0637, is available at *http://www.regulations.gov* or at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Andrew Ertman, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 703–308–9367; email address: *ertman.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide 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. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0637 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 9, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0637, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket,

along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of October 27, 2010 (75 FR 66092) (FRL–9218–2), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0E7748) by IR–4 Project Headquarters, Rutgers, the State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.205 be amended by establishing tolerances for residues of the dessicant, defoliant, and herbicide paraquat dichloride, (1,1′-dimethyl-4,4′-bipyridinium-ion) derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation), in or on the following perennial tropical and subtropical fruit trees: Sugar apple, cherimoya, atemoya, custard apple, ilama, soursop, biriba, lychee, longan, Spanish lime, rambutan, pulasan, star apple, black sapote, mango, sapodilla, canistel, mamey sapote, feijoa, jaboticaba, wax jambu, starfruit (carambola), pawpaw, pomegranate, and white sapote at 0.05 parts per million (ppm). That notice referenced a summary of the petition prepared by Syngenta, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for paraquat including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with paraquat follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Paraquat is severely toxic following acute exposure via the dermal and inhalation routes and only slightly less toxic by the oral route of exposure. It is a dermal and ocular irritant but is not a skin sensitizer.

The primary target organ of paraquat is the lung. Evidence of lung inflammation, scarring, and compromised lung function in response to paraquat are observed throughout the toxicity database in different species (rats, mice, and dogs). Effects in the respiratory tract are observed after acute, subchronic, and chronic exposures regardless of the route of exposure (oral or inhalation). However, inhalation was a more sensitive route of exposure than the oral route. With increasing durations of exposure, effects of paraquat in other organ systems are observed. These effects include liver inflammation and necrosis in rats and inflammation and necrosis of the kidneys in rats and mice. Lenticular changes in the eyes of rats were also observed with increasing durations of exposure. Importantly, the lung effects occur at doses lower than effects in these other organs systems, and so protecting for lung effects protects for all other adverse effects of paraquat.

The effects of paraquat in lungs are considered systemic effects. There are no dermal toxicity studies suitable for evaluation of systemic lung effects in the toxicity database for paraquat. Therefore, the Agency is using a dermal absorption factor of 0.3%, which was derived from dermal absorption studies conducted in humans and monkeys and an oral endpoint for dermal risk assessments.

Paraquat does not cause reproductive toxicity. Developmental toxicity in response to paraquat, when observed, always occurred in the presence of maternal toxicity. Four developmental toxicity studies (two in rats and two in mice) are available. Since effects in the offspring (e.g., reduced body weight/gain and delayed skeletal ossification), when present, were lesser in severity than those observed in maternal animals (e.g., respiratory distress, reduced body weight, lesions in the lungs and kidneys) and were also consistent with those commonly observed as secondary to maternal toxicity, the Agency has concluded that there was no evidence of qualitative susceptibility in the young.

Previously, the Agency had required that a developmental toxicity study in rabbits be conducted for paraquat. As a result, the Food Quality Protection Act (FQPA) Safety Factor (SF) had been retained as a 3X database uncertainty factor for Females 13–39 years old for the acute dietary risk assessment only. The Agency recently reviewed the toxicity database for paraquat and concluded that a developmental toxicity study in rabbits was not likely to add information that would impact the paraquat risk assessment. Therefore, this study is no longer required and the FQPA Safety Factor has been reduced to 1X for this population.

No evidence of neurotoxicity was observed in acute and subchronic neurotoxicity studies conducted with paraquat up to the doses at which respiratory effects were observed (e.g. the maximum tolerated dose). There was also no evidence of immunotoxicity in response to paraquat.

Based on the lack of evidence of carcinogenicity in mice and rats, the Agency has concluded that there is no concern for the carcinogenic potential of paraquat. Paraquat was not mutagenic in the *Salmonella typhimurium* assay, was not genotoxic in the unscheduled DNA synthesis assay *in vitro* or *in vivo,* was negative for chromosomal aberration in the bone marrow test, and no evidence was found for suppressed fertility or dominant lethal mutagenicity in mice. Conversely, paraquat was found to be weakly positive in the mouse lymphoma assay and human lymphocyte cytogenetic assay, and was positive in the sister chromatid exchange assay.

Specific information on the studies received and the nature of the adverse effects caused by paraquat as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Paraquat Dichloride. Human Health

Risk Assessment for the Request to Add Uses on Perennial Tropical and Sub-Tropical Fruit Trees'' on pps. 31–35 in docket ID number EPA–HQ–OPP–2010–0637.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern (LOC) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for paraquat used for human risk assessment is shown in the following table.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR PARAQUAT FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/Scenario	Point of departure and uncertainty/ safety factors	RfD, PAD, LOC for risk assessment (in mg/kg/day)	Study and toxicological effects
Acute dietary (all populations)	NOAEL = 1.25 mg/kg/day. UF_A = 10xUF_H = 10xFQPA SF = 1x	aRfD = 0.0125 aPAD = .0125	Multi-generation rat study. LOAEL = 3.75 mg/kg/day, based on increased incidences of alveolar histiocytes in both sexes.
Chronic dietary (All populations)	NOAEL = 0.45 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	cRfD = 0.0045 cPAD = .0045	Chronic toxicity in dogs. LOAEL = 0.93 mg/kg/day, based on increased severity of chronic pneumonitis and gross lung lesions in both sexes, and focal pulmonary granulomas in males.

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to paraquat, EPA considered exposure under the petitioned-for tolerances as well as all existing paraquat tolerances in 40 CFR 180.205. EPA assessed dietary exposures from paraquat in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for paraquat. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, the acute analysis assumed a distribution of residues based on tolerance level residues. Empirical and Dietary Exposure Evaluation Model (DEEM) default processing factors were used to modify the field trial data. Maximum screening-level percent crop treated (PCT) estimates were used for commodities for which data were available. If no PCT data were available, 100 PCT was assumed.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed tolerance level residues and average estimates of PCT.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that paraquat does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency estimated the PCT in the chronic dietary risk assessment for existing uses as follows: Alfalfa, 1%; almonds, 25%; apples, 20%; apricots, 10%; artichokes, 25%; asparagus, 10%; avocados, 2.5%; barley, 1%; green beans, 1%; blackberries, 30%; blueberries, 10%; broccoli, 1%; cabbage, 2.5%; caneberries, 45%; cantaloupes, 5%; carrots, 2.5%; celery, 1%; cherries, 20%; corn, 2.5%; cotton, 15%; cucumbers, 5%; dry beans/peas, 2.5%; summer fallow, 1%; garlic, 1%; grapefruit, 2.5%; grapes, 20%; kiwifruit, 30%; lemons, 2.5%; lettuce, 1%;

nectarines, 10%; olives, 5%; onions, 5%; oranges, 5%; pasture, 1%; pastureland, 1%; peaches, 30%; peanuts, 20%; pears, 10%; green peas, 1%; pecans, 5%; peppers, 10%; pistachios, 25%; plums, 15%; potatoes, 5%; prunes, 10%; pumpkins, 5%; raspberries, 70%; rice, 1%; sorghum, 1%; soybeans, 1%; spinach, 5%; squash, 5%; strawberries, 10%; sugar beets, 1%; sugarcane, 5%; sunflowers, 1%; sweet corn, 2.5%; tangelos, 10%; tangerines, 10%; tobacco, 1%; tomatoes, 5%; walnuts, 15%; watermelons, 5%; wheat, 1%.

In most cases, EPA uses available data from USDA/National Agricultural Statistics Service (NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which may be applied in a particular area.

2. *Dietary exposure from drinking water.* In the past the EPA has concluded that though paraquat undergoes minimal degradation in the environment, and thus is very persistent (as parent), paraquat residues are not expected in surface or ground water. Paraquat has a very high propensity to bind to solids, particularly clay, which makes it very immobile. In addition, paraquat does not readily appear to desorb from clay. The greatest cause for concern is likely to be erosion of contaminated sediments off-site and subsequent redeposition onto non-target areas (especially surface water bodies). Because of its very low mobility and strong tendency to bind tightly to soils, paraquat contamination of drinking water supplies derived from groundwater is expected to be highly unlikely. In addition, the strong binding characteristics of paraquat dichloride are likely to render most residues in raw drinking water sources removable through sedimentation processes, which are typically included as part of standard drinking water treatments.

Because of its strong cation-exchange sorption to soils, modeling is not appropriate for paraquat. In most circumstances, the levels of paraquat residues in surface or ground water are expected to be insignificant. Because it should sorb to suspended sediment, coagulation and flocculation processes in drinking water treatment plants are likely to remove any paraquat dichloride residues present in the raw water. Residues of paraquat dichloride in drinking water derived from surface supplies can therefore be assumed to be negligible.

In order to determine the most appropriate and realistic drinking water numbers to use in the human health risk assessment, the Agency reviewed a non-guideline supplemental mobility study that was conducted to evaluate the effects of traditional water treatment processes on paraquat and to determine the mobility of paraquat through soil filtration column. ^{14}C-paraquat, spiked at ~30 parts per billion (ppb) into the raw surface water samples from five representative U.S. community water supply facilities, was effectively removed by a combination of typical water treatment processes conducted on a laboratory-scale: The ''laboratory jar test'' (coagulation using alum with either lime or soda ash, flocculation and sedimentation), followed by duel media filtration (anthracite atop of filtering sand). The combination process was able to reduce the level of ^{14}C-paraquat to approximate or below the limit of detection of approximately 0.15 microgram/per liter (μg/L) ppb. The level of paraquat in the finished water of 0.15 ppb was used in both the acute and chronic assessments.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Paraquat is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found paraquat to share a common mechanism of toxicity with any other substances, and paraquat does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that paraquat does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* Prenatal developmental studies in rats and mice show that developmental effects only occur in the presence of maternal toxicity. No effect on

reproduction was observed. Fetal effects were limited to delayed ossification and decreased body weights. There was no indication from these studies that paraquat dichloride is involved in endocrine disruption.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for paraquat is complete.

ii. There is no indication that paraquat is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that paraquat results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The acute dietary exposure analysis is based on tolerance level residues and maximum estimates of PCT. The chronic analysis is based on tolerance level residues and average estimates of percent crop treated. For estimating levels of paraquat in drinking water, the Agency relied on a study that evaluated the effects of traditional water treatment processes on paraquat. These assessments will not underestimate the exposure and risks posed by paraquat.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to paraquat will occupy 21% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to paraquat from food and water will utilize 14% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no residential uses for paraquat.

3. *Short- and Intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). A short- and intermediate-term adverse effect was identified; however, paraquat is not registered for any use patterns that would result in short- and/or intermediate-term residential exposure. Short- and intermediate-term risk is assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- and intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- and intermediate-term risk), no further assessment of short- and intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for paraquat.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, paraquat is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to paraquat residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate spectrophotometric method, Method I of the Pesticide Analytical Manual (PAM) Vol. II, is available for enforcing tolerances for residues of paraquat in/on plant commodities.

The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established MRLs for paraquat in or on assorted tropical and subtropical fruits-inedible peel (includes all except atemoya, biriba, jaboticaba, starfruit, and wax jambu) at 0.01 ppm. These MRLs are different from the tolerances being established for paraquat in the United States. The Agency cannot harmonize with the Codex MRL because there were residues greater than 0.01 ppm in some of the data on which the proposed U.S tolerances are based.

V. Conclusion

Therefore, tolerances are established for residues of paraquat dichloride, (1,1′-dimethyl-4,4′-bipyridinium-ion) derived from application of either the bis(methylsulfate) or the dichloride salt (both calculated as the cation), in or on the following: Sugar apple, cherimoya, atemoya, custard apple, ilama, soursop, biriba, lychee, longan, Spanish lime, rambutan, pulasan, star apple, black sapote, mango, sapodilla, canistel, mamey sapote, feijoa, jaboticaba, wax jambu, starfruit (carambola), pawpaw, pomegranate, and white sapote at 0.05 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. 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). Because this final rule has been exempted from review under Executive Order 12866, this final rule 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) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885,

April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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).

VII. 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 to 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 this final 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 in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 27, 2012.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.205 is amended by alphabetically adding the following new entries to the table in paragraph (a) to read as follows:

§ 180.205 Paraquat; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Atemoya	0.05
* * * * *	
Biriba	0.05
* * * * *	
Canistel	0.05
* * * * *	
Cherimoya	0.05
* * * * *	
Custard apple	0.05
* * * * *	
Feijoa	0.05
* * * * *	
Ilama	0.05
Jaboticaba	0.05
* * * * *	
Longan	0.05
Lychee	0.05
Mango	0.05
* * * * *	
Pawpaw	0.05
* * * * *	
Pomegranate	0.05
* * * * *	
Pulasan	0.05
Rambutan	0.05
* * * * *	
Sapodilla	0.05
Sapote, black	0.05
Sapote, mamey	0.05
Sapote, white	0.05
* * * * *	
Soursop	0.05
* * * * *	
Spanish lime	0.05
* * * * *	
Star apple	0.05
Starfruit	0.05
* * * * *	
Sugar apple	0.05
* * * * *	
Wax jambu	0.05

* * * * *

[FR Doc. 2012–19320 Filed 8–8–12; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 2

[Docket No. USCG–2007–27668]

RIN 1625–AB35

Approval of Classification Societies

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: Federal law requires that classification societies conducting certain work in the United States be approved by the Coast Guard. In this rule, we finalize application procedures and performance standards that classification societies must meet in order to obtain approval by the Coast Guard. Through this final rule, we seek to improve marine safety and environmental protection by assuring the consistency and quality of work conducted by classification societies that review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States.

DATES: This final rule is effective September 10, 2012.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the **Federal Register** on September 10, 2012.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2007–27668 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2007–27668 in the ''Keyword'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Alfred Giordano, Office of Design and Engineering Standards (CG–ENG–1), Coast Guard; telephone 202–372–1362, email *alfred.j.giordano@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

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I. Abbreviations

ABS American Bureau of Shipping
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
IACS International Association of Classification Societies
ICLL International Convention on Load Lines, 1966
IMO International Maritime Organization
ISO International Organization for Standardization
MARPOL 73/78 International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto
MOU Memorandum of Understanding
NARA National Archives and Records Administration
NAICS North American Industry Classification System
NEPA National Environmental Policy Act of 1969
NPRM Notice of Proposed Rulemaking
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
RO Recognized Organization
SBA Small Business Administration
SOLAS International Convention for the Safety of Life at Sea, 1974, as amended
U.S.C. United States Code

II. Regulatory History

We published a notice of policy and a request for comments that outlined the procedures by which classification societies could apply for approval with the Coast Guard. *See* 69 FR 63548 (November 2, 2004). This notice of policy was based on the August 9, 2004 enactment of Section 413 of the Coast Guard and Maritime Transportation Act of 2004 (''the 2004 Act'') (Pub. L. 108–293). The 2004 Act amended 46 U.S.C. 3316 by adding paragraph (c), which prohibits certain activities on a vessel in the United States by classification societies that have not been approved by the Coast Guard. The 2004 Act mandated that, after December 31, 2004, a classification society, including an employee or agent of that society, may not review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States unless the classification society is either approved by the Coast Guard or is a full member of the International Association of Classification Societies (IACS).

After publication of the notice of policy, we received two questions from the public that were addressed in a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on April 23, 2010. The NPRM, entitled ''Approval of Classification Societies'' (75 FR 21212), outlined the procedures and criteria we would use to evaluate classification societies. The comment period closed on July 22, 2010, and we received no comments on the proposed rule. No public meeting was requested and none was held.

On October 15, 2010, the enactment of section 622 of the Coast Guard Authorization Act of 2010 (the ''2010 Act'') (Pub. L. 111–281) amended 46 U.S.C. 3316(c). The 2010 Act changed the provision's applicability to require all classification societies, including IACS members, to be approved by the Coast Guard prior to conducting any work on a vessel in the United States. Because of the 2010 Act's applicability changes, we reopened the comment period to allow for any additional or updated comments from the public on our plan to remove the proposed rule's exemption for IACS members, and apply the proposed rule to all classification societies seeking Coast Guard approval, including IACS members. *See* 76 FR 47531 (August 5, 2011). The comment period closed on September 6, 2011, and 4 commenters with 11 comments responded to the revised proposal. No public meeting was requested and none was held.

III. Basis and Purpose

This final rule codifies into Title 46 of the Code of Federal Regulations (CFR) the procedures and criteria to evaluate classification societies in accordance with 46 U.S.C. 3316(c) in order to have a specific, consistent, and enforceable basis for approval determinations.

IV. Background

To incorporate the requirements of 46 U.S.C. 3316(c) into regulations, we deem the International Maritime Organization (IMO) Resolution A.739(18), ''Guidelines for the Authorization of Organizations Acting on Behalf of the Administration,'' to provide a sound and internationally recognized standard on which to base our classification society review and approval program.

The IMO acknowledges that a classification society often acts as a Recognized Organization (RO) under authority delegated by a flag state administration when it performs technical and survey work on behalf of that administration. Recognizing this relationship, IMO Resolution A.739(18) adopted guidelines for minimum competency standards for ROs that act on behalf of flag state administrations to conduct vessel examinations, issue international certificates, perform surveys and certifications, and determine vessel tonnage in accordance with applicable international requirements. In addition, the IMO guidelines are consistent with our minimum standards for a classification society to qualify as a Coast Guard-recognized organization in accordance with 46 CFR part 8, ''Vessel Inspection Alternatives.''

To perform work on behalf of a flag state administration that uses the IMO guidelines, an RO must sufficiently demonstrate that its business practices meet or exceed the performance standards described in IMO Resolution A.739(18). For example, the RO must show that it—

- Publishes and systematically maintains rules for the design, construction, and certification of vessels;

- Is professionally staffed with strategically placed resources for geographic coverage;
- Maintains a high level of professional ethics;
- Is competent;
- Provides timely and quality services; and
- Maintains an internal quality system no less effective than the International Organization for Standardization (ISO) 9000 series certification. (For information on these standards or on ISO, see www.iso.ch.)

When an RO demonstrates these competencies to the satisfaction of the flag state administration, its authorization is documented by that administration in a formal written agreement under the recommendations of IMO Resolution A.739(18).

Similarly, all classification societies must meet the following requirements for approval under the provisions of 46 U.S.C. 3316(c):

- Vessels surveyed by the classification society must have an adequate safety record.
- The classification society must have an adequate program to—
  - Develop and implement safety standards for the vessels it surveys;
  - Make its safety records available in an electronic format;
  - Make the safety records of a vessel survey available to other classification societies; and
  - Request safety records from other classification societies that previously surveyed a vessel for the purpose of a specific vessel survey.

To better assess classification societies, we evaluate how these societies implement safety standards for vessels by examining worldwide port state control statistics for each society and the vessels it surveys. These data normally appear in annual reports published by the world's regional port state control organizations. Some of these annual reports are not available online. These organizations include, but are not limited to, the following organizations created under regional memoranda of understanding (MOU):

- Paris Memorandum of Understanding on Port State Control (Paris MOU: *www.parismou.org*).
- Memorandum of Understanding on Port State Control in the Asian-Pacific Region (Tokyo MOU: *www.tokyo-mou.org*).
- Mediterranean Memorandum of Understanding on Port State Control (Med MOU: *www.medmou.org*).
- Black Sea Memorandum of Understanding on Port State Control (Black Sea MOU: *www.bsmou.org*).
- The Latin American Agreement on Port State Control of Vessels (Vina del Mar MOU: *www.acuerdolatino.int.ar*).
- West and Central Africa Memorandum of Understanding on Port State Control (Abuja MOU: *www.abujamou.org*).
- Riyadh Memorandum of Understanding on Port State Control in the Gulf Region (Riyadh MOU: *www.riyadhmou.org*).
- Indian Ocean Memorandum on Port State Control (Indian Ocean MOU: *www.iomou.org*).
- Caribbean Memorandum of Understanding on Port State Control (Caribbean MOU: *www.caribbeanmou.org*).

These MOU are regional agreements among countries to share port state control inspection results with the aim of eliminating the operation of substandard ships. Typically, MOU are managed by secretariats that maintain databases of inspection activities and results and often compile the data into annual reports. The annual reports normally compiled by the MOU secretariats are available to the public and identify, among other things—

- Vessel names and particulars;
- Inspection dates and locations;
- Classification societies;
- Deficiencies noted;
- Detentions imposed;
- Detained vessels; and
- Banned and targeted vessels.

For information on U.S. port state control results and the regional MOUs, see *www.uscg.mil/hq/g-m/pscweb/index.htm.* A copy of the most recent annual report from the United States and the regional organizations can be found in this docket.

We can evaluate the performance of a particular classification society by scrutinizing the port state control history of the vessels it surveys. For example, an annual report from a major MOU secretariat typically includes 3 years of data showing the performance of all ships listed by administration and RO. The RO is usually a classification society.

These shared port state control data are indispensable in evaluating the safety performance of flag state administrations and classification societies. Not only can we check performance from the data in the annual reports, we can also track trends from year to year.

V. Discussion of Comments and Changes

We received no comments from the NPRM published on April 23, 2010. Since the publication of the NPRM, the 2010 Act required all classification societies, without exemption, to seek Coast Guard approval prior to working on a vessel located in the United States. Accordingly, we reopened the comment period (76 FR 47531).

A. Comments Received After Reopening the Comment Period

We received 11 comments from 4 commenters in response to the NPRM after the reopening of the comment period.

Two commenters requested that a classification society that has qualified as a Coast Guard-recognized organization under 46 CFR part 8 to conduct work on behalf of the Coast Guard on U.S. flagged vessels be exempted from the proposed rule. We have determined that we lack the authority to grant wholesale exemptions to the requirement in 46 U.S.C. 3316(c)(1) that every classification society ''appl[y] for approval under this subsection,'' and that section 3316(c)(2) requires us to ''review[] and approve[] that society'' under that subsection.

However, we will deem compliance with the application procedures in 46 CFR part 8 to satisfy the new application procedures under new 46 CFR subpart 2.45 promulgated by this rule. Consistent with the statute, we are requiring any Coast Guard-RO seeking approval as a classification society under this rule to explicitly request that the Coast Guard evaluate their 46 CFR part 8 application materials under this rule as well. Upon receiving such notice, we will treat the part 8 application materials as an application under this subpart. If we need additional information to perform our review, we will take the appropriate action to notify the classification society and give them an opportunity to submit the information to us.

One commenter requested that his or her organization be automatically approved under 46 U.S.C. 3316(c)(1) and under the proposed rule. The commenter argued that such approval was justified because the organization is identified in 46 U.S.C. 3316(a) by name as an agent on behalf of the U.S. Government in classifying vessels owned by the Government. Also, the organization is recognized by the Coast Guard and authorized as a recognized organization of the Coast Guard pursuant to the requirements of Coast Guard regulations in 46 CFR part 8 pursuant to 46 U.S.C. 3316(b)(1).

We agree with the commenter that the organization is identified as the sole classification society for U.S. Government-owned vessels. However, based on the reasoning previously stated, we cannot automatically approve

any organization as a classification society. Section 3316(c)(1) of 46 U.S.C. requires that every classification society make application to the Coast Guard for approval and that the Coast Guard assess the conduct of the classification society under 46 U.S.C. 3316(c)(2). An automatic approval would violate both the application requirement and the assessment requirement. As stated above, however, we will deem compliance with the application procedures in 46 CFR part 8 to satisfy the new application procedures under new 46 CFR subpart 2.45, provided each applicant submits indication that they all wish to be assessed under the new regulations in 46 CFR subpart 2.45 to become an approved classification society.

Additionally, the same commenter asked that we clarify in the final rule whether the detention rate is based on all vessel detentions or specifically RO-related detentions. We agree that clarification is necessary. An RO detention occurs when a vessel is detained due to a deficiency which is the result of an activity by an RO. Therefore, we will amend the regulatory text to specify that the detention rate is based specifically on RO-related detentions.

One commenter felt that the final rule does not list clear or specific criteria for annually reevaluating the records of classification societies to ensure they continue to meet the conditions for approval. The same commenter also stated that if the re-evaluation criteria include data from global port state control regimes, then some previously approved classification societies would have poorer records than some classification societies that are not approved. The same commenter expressed the hope that the requirement in § 2.45–15 would not amount to annual auditing of classification societies performance processes.

We agree that the proposed rule did not explicitly list the criteria for annually reevaluating the performance of a classification society. However, as stated in the NPRM (see 75 FR page 21215), we will ''annually reevaluate the records of approved classification societies to ensure they continue to meet the conditions for approval.'' It was and remains our intention to use the approval requirements listed in § 2.45–15 to annually reevaluate the performance of approved classification societies. We also agree that it is possible for us to find during a re-evaluation that an approved classification society has a poor performance record based on data collected from global port state control regimes. If we determine that a previously approved classification society no longer meets the requirements in § 2.45–15, then we will take corrective action per § 2.45–20.

While we appreciate the commenter's concern, annual review of a classification society's performance is necessary to ensure that the classification society is in compliance with the requirements set forth in the regulations.

One commenter had six comments, discussed as follows.

The commenter asked that we clarify the scope of ''repair'' in light of the fact that repairs to the hull, equipment, and machinery can be made at any time as a result of an accident or survey work. Repair includes, but is not limited to, any work done to the hull, equipment, or machinery that restores the item to its original design or intended operating condition.

The commenter requested that we clarify whether a classification society would be allowed to conduct surveys ''whether they be periodical (annual, intermediate and renewal) or occasional and to issue certificates even if they are not approved by the Coast Guard.'' A classification society that is not approved by the Coast Guard would be permitted to conduct surveys and issue certificates to a vessel if that vessel is not undergoing or has not completed any construction, repair, or alteration in the United States.

Next, the commenter took issue with the requirement proposed in § 2.45–15(a)(6)(i) that a classification society must use a system to make its safety records available to the Coast Guard. The commenter believes the provision does not define or sufficiently clarify the scope of information to be provided as part of a vessel's safety records, thereby risking the disclosure of commercially sensitive and confidential information of ship owners to parties who should not be privy to that information.

We appreciate the commenter's concern; however, to determine whether the vessels surveyed by a classification society have an adequate safety record, the classification society would be required to provide all records we formally request. We would request only those records that are necessary to adequately determine the performance of a classification society with respect to safety and, except as required by law, would not disclose those records to any parties with competing interests.

The same commenter stated that § 2.45–15(a)(6)(ii), which requires a classification society to have in place a system to provide its safety records to other classification societies when requested, is redundant because of existing procedures for sharing data. We appreciate the commenter's concern; however, 46 U.S.C. 3316(c)(2)(B)(iii) mandates that the Coast Guard require classification societies to make their safety records available to all relevant parties.

Next, the commenter was concerned with the proposed requirement in § 2.45–15(5) that requires that a country for which a classification society is an RO must be a signatory to the International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS); the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL); and the International Convention on Load Lines, 1966 (ICLL). The commenter felt that this requirement may cause an adverse situation because a flag state would be compelled to ratify the aforementioned international conventions simply to have its RO meet the Coast Guard's requirement. We disagree that this requirement would create an adverse situation. By ratifying the SOLAS, MARPOL, and ICLL conventions, a flag state would join the majority of flag states that have ratified these conventions and help ensure that their vessels improve their safety record.

Finally, the commenter requested we clarify whether all countries for which a classification society is an RO must be a signatory to each of the SOLAS, MARPOL, and ICLL conventions. The commenter was concerned because classification societies usually are ROs of many countries, including ones that have not ratified some of the international conventions. In response, we point out that the regulatory text in § 2.45–15(a)(4) clearly states that the classification society must have received approval to act as an RO by at least one country that is a signatory to the SOLAS, MARPOL, and ICLL conventions. Therefore, at least one country would have to be a signatory to these conventions.

B. Changes Made To Address the 2010 Act

In this final rule, we made changes to several sections from the proposed rule based on changes in applicability as required by the enactment of the 2010 Act, which amended 46 U.S.C. 3316(c), and to improve clarity and ensure accuracy of the information presented in this final rule.

We amended §§ 2.45–10(a), 2.45–15(a), and 2.45–30 by deleting any references to exemptions for IACS members in accordance with the 2010

Act, which requires all classification societies, without exemption, to seek Coast Guard approval prior to working on a vessel located in the United States.

We amended § 2.45–25 by adding new paragraph (c), which states that an application submitted to become a Coast Guard-RO under 46 CFR part 8, subpart B satisfies the application requirements to become an approved classification society as long as the RO's status has not been revoked, it submits a request to become an approved classification society, and it certifies that the application information submitted under 46 CFR part 8, subpart B remains valid. This change, in response to commenters seeking an exemption or automatic approval based on RO status, avoids requiring organizations to resubmit information they have previously provided as part of an application under 46 CFR part 8, subpart B. This change permits such organizations to submit a minimal application, as long as the Coast Guard has the necessary information evidenced by continuing RO status and the certification that the previously submitted information is still valid.

We amended § 2.45–15(a)(1) to clarify we will review the detention records of a classification society for vessels it surveys during the past 3 years.

We also amended § 2.45–15(a)(5) to clarify that the country for which the classification society is an RO refers to the same country referenced in § 2.45–15(a)(4).

We amended § 2.45–15(a)(5)(ii) by rewording the language of the proposed text to clarify that the one country for which the class society meets the requirement of § 2.45–15(a)(4) cannot be identified as a flag state targeted for additional port state control action by the Coast Guard.

We also made minor changes to the regulatory text. First, the final rule deletes the authority citation for 46 CFR 2.45, as this section was removed from the CFR on September 30, 1997. *See* 62 FR 51195. Second, the final rule makes minor formatting changes to improve clarity, such as adding paragraph designations within some sections. Finally, throughout the rule we changed the Coast Guard office designator ''CG–521'' to CG–ENG'' to reflect a recent Coast Guard organizational change.

VI. Incorporation by Reference

The Director of the **Federal Register** has approved the material in § 2.45–5 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in that section.

VII. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 13563, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, the Office of Management and Budget (OMB) has not reviewed it under that Order.

As previously discussed in section ''V. Discussion of Comments and Changes,'' the applicability provision was changed to reflect an amendment to the legal authority made by the Coast Guard Reauthorization Act of 2010. In summary, the total cost for this rule will involve only one-time costs for applications for the initial approval, and we estimate the total will be $5,429. Below, we present the basis for our estimate of the costs for this final rule that accounts for this amendment and the current status of classification societies active in the United States.

We previously approved six classification societies under the policy announced in 2004 based on the 2004 Act. Of the six, these two are IACS members: Indian Register of Shipping and Polish Register of Shipping. The other four that are not IACS members are: Bulgarian Register of Shipping, China Corporation Register of Shipping, Hellenic Register of Shipping, and International Naval Surveys Bureau. In the NPRM, we stated that approved classification societies would not need to take additional actions and would not occur any additional costs. We are not aware of any information, either from the comments or other sources, to alter that assessment. Thus, these six organizations would not have any cost burden associated with this rulemaking.

We identified the remaining members of IACS as the population affected by the 2010 Act amendments, which changed the applicability of 46 U.S.C. 3316(c) to include IACS members in the application and review procedures. Table 2 lists these classification societies and indicates whether they currently have RO status with the Coast Guard under 46 CFR part 8.

TABLE 1—IACS MEMBERS WITHOUT CLASSIFICATION SOCIETY APPROVAL

Class society	Abbreviation	RO?
American Bureau of Shipping	ABS	Yes.
Bureau Veritas	BV	Yes.
China Classification Society	CCS	No.
Croatian Register of Shipping	CRS	No.
Det Norske Veritas	DNV	Yes.
Germanischer Lloyd	GL	Yes.
Korean Register of Shipping	KRS	No.
Lloyd's Register of Shipping	LR	Yes.
Nippon Kaiji Kyokai	NK	Yes.
Registro Italiano Navale	RINA	Yes.
Russian Maritime Register of Shipping	RS	No.

As the table shows, there are seven class societies that are not approved but currently have RO status (ABS, BV, DNV, GL, LR, NK, and RINA). We assume that they will take advantage of § 2.45–25(c) and will submit an application to become approved classification societies.

Coast Guard subject matter experts in the Naval Architecture Division provided estimates of time to process one of these applications submitted in accordance with new § 2.45–25(c). The classification society will require 1 hour for a junior manager to draft the application letter and 0.5 hour for a senior manager to review it. Coast Guard processing will require 2 hours for a senior staff member or junior manager to review the application, verify the data,

and draft the approval letter, and 0.25 hour for a senior manager to review it. Table 2 presents the complete calculations of the unit cost for this application, with the same wage rates used in the NPRM, ''Approval of Classification Societies'' (75 FR 21212).

TABLE 2—UNIT COST OF APPLICATION FOR CLASSIFICATION SOCIETY WITH RO STATUS

Sector	Position	Hours	Wage rate	Position cost	Sector cost
Industry	Junior Manager	1.00	$67	$67	
	Senior Manager	0.50	88	44	
Industry Total		1.50			$111
Government	Junior Officer	2.00	67	134	
	Senior Officer	0.25	88	22	
Government Total		2.25			156
Total Unit Cost		3.75			267

The total cost for these applications is $1,869 and Table 3 displays the calculations.

TABLE 3—APPLICATION COSTS FOR CLASS SOCIETIES WITH RO STATUS

Sector	Count	Unit cost	Total cost
Industry	7	$111	$777
Government	7	156	1,092
Total	7	267	1,869

We anticipate that the other four classification societies that currently are not ROs (CCS, CRS, KRS, and RS) will also apply to become approved classification societies. They will need to prepare a complete application per the requirements of § 2.45–25(b). In the NPRM, we estimated the total unit cost for one of these applications at $890 ($712 for industry and $178 for government). We received no additional information from either the comments or other sources to cause us to modify this estimate. The total cost for these four applications is $3,560, and Table 4 presents the calculations.

TABLE 4—APPLICATION COSTS FOR CLASS SOCIETIES WITHOUT RO STATUS

Sector	Count	Unit cost	Total cost
Industry	4	$712	$2,848
Government	4	178	712
Total	4	890	3,560

In the NPRM, we stated that based on the historical record, we anticipate that the approved classification societies will remain in good standing in the foreseeable future. We received no contrary information since then. With that assumption, we anticipate that there will be no costs associated with suspensions or reapprovals. As stated earlier, we also anticipate that only current IACS members will apply for approval.

With these assumptions, the total costs for this rule will involve only one-time costs for applications for the initial approval, and we estimate the total will be $5,429. Table 5 summarizes these application costs, as previously described.

TABLE 5—TOTAL APPLICATION COSTS

RO Status	Count	Industry costs	Government costs	Total costs
Currently RO	7	$777	$1,092	$1,869
Not RO	4	2,848	712	3,560
Total	11	3,625	1,804	5,429

The benefits of this rule derive from incorporating the amendments from the Coast Guard Authorization Act of 2004 and the Coast Guard Authorization Act of 2010 and incorporating the standards from IMO Resolution A.739(18), ''Guidelines for the Authorization of Organizations Acting on Behalf of the Administration,'' to provide a sound and internationally recognized standard on which to base our review and approval program.

B. Small Entities

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

For-profit classification societies affected by this rule may be classified under one of the following North American Industry Classification System (NAICS) 6-digit codes for water transportation: 488330—Navigation Services to Shipping or 488390—Other Support Activities for Water Transportation. According to the Small Business Administration's (SBA) size standards, a U.S. company classified under these NAICS codes with annual revenues of less than $7 million is considered a small entity.

The only predominant U.S. classification society is the American Bureau of Shipping (ABS), which is a non-profit organization. We do not consider the ABS to be a small entity under the Regulatory Flexibility Act. In addition, the costs that we described in the previous section are so minimal, we

do not believe they rise to the level of being a significant economic impact. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520).

This rule comprises application procedures classification societies must meet for approval. As stated in Section VII.A, we expect four new approvals in the first year after the rule becomes effective. In the NPRM, we forecasted that there would be no or very few applications in the near future. We received no comments or additional information to indicate that there would be 10 or more approvals after the first year. Thus, we expect to receive less than 10 approval requests per year. This figure is less than the threshold of 10 per 12-month period for collection of information reporting purposes under the PRA.

This rule specifies a separate approval process for classification societies that are currently ROs. These ROs will only need to send the Coast Guard a letter requesting that we use previously collected data as the basis for their approval.

As stated in Section VII.A, we expect the seven current ROs to use this method to apply for approval the first year the rule becomes effective. This process does not require any new information and the affected population is less than the threshold of 10 per 12-month period for collection of information reporting purposes under the PRA.

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

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

H. Civil Justice Reform

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

I. Protection of Children

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

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule uses the following voluntary consensus standards: IMO Resolution A.739(18), ''Guidelines for the Authorization of Organizations Acting on Behalf of the Administration.'' The section that references this standard and the location where this standard is available is listed in 46 CFR 2.45–5.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(b) and (d) of the Instruction. This rule involves regulations concerning internal agency functions and regulations concerning

manning, documentation, admeasurement, inspection, and equipping of vessels. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 2

Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 2 as follows:

PART 2—VESSEL INSPECTIONS

■ 1. The authority citation for part 2 is revised to read as follows:

Authority: Sec. 622, Pub. L. 111–281; 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2110, 3103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add subpart 2.45 to read as follows:

Subpart 2.45—Classification Society Activities

Sec.
2.45–1 Definitions.
2.45–5 Incorporation by reference.
2.45–10 General.
2.45–15 Approval requirements.
2.45–20 Probation, suspension, and revocation.
2.45–25 Application for approval.
2.45–30 Penalties.

Subpart 2.45—Classification Society Activities

§ 2.45–1 Definitions.

The following definitions apply to this subpart:

Administration means the Government of the State whose flag the ship is entitled to fly.

Classification society means an organization that, at a minimum, verifies that a vessel meets requirements embodying the technical rules, regulations, standards, guidelines and associated surveys, and inspections covering the design, construction, and/or through life compliance of a ship's structure and essential engineering and electrical systems.

Recognized Organization (RO) means an organization authorized to act on behalf of an Administration.

Regional port state control secretariat means an organization established to collect and maintain port state control inspection data in addition to other functions under a regional agreement among countries.

§ 2.45–5 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection 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.* Also, it is available for inspection at the Coast Guard's Office of Design and Engineering Systems (CG–ENG), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in this section.

(b) International Maritime Organization, 4 Albert Embankment, London SE1 7SR, U.K. +44 (0)20 7735 7611, *http://www.imo.org/.*

(1) IMO Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, adopted 4 November 1993, incorporation by reference approved for § 2.45–15.

(2) [Reserved]

§ 2.45–10 General.

(a) A classification society (including an employee or agent of that society) must not review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States unless it is approved under the provisions of this subpart.

(b) This subpart applies to a recognized organization that meets the definition of a classification society provided in § 2.45–1 of this subpart.

§ 2.45–15 Approval requirements.

(a) A classification society may be approved for purpose of § 2.45–10 if the following conditions are met:

(1) Vessels surveyed by the classification society must have a worldwide port state control detention rate of less than 2 percent based on the number of Recognized Organization (RO)-related detentions divided by the number of vessel inspections for at least 40 port state control inspections for the past 3 years;

(2) The classification society must not be identified in the most recent publication of ''Port State Control in the United States'' as a Priority I and as having more than one RO-related detention for the past 3 years;

(3) The classification society must comply with the minimum standards for an RO recommended in IMO Resolution A.739(18), Appendix 1 (incorporated by reference, see § 2.45–5.);

(4) The classification society must be an RO for at least one country under a formal written agreement that includes all of the elements described in IMO Resolution A.739(18), Appendix 2 (incorporated by reference, see § 2.45–5.);

(5) The referenced country that is cited for satisfaction of the requirement of paragraph (a)(4) of this section for which the classification society is an RO—

(i) Must be signatory to each of the following: The International Safety of Life at Sea Convention (SOLAS), the International Convention on the Prevention of Pollution from Ships (MARPOL 73/78), the International Convention on Load Lines (ICLL), 1966, and the Protocol of 1988 relating to the ICLL, 1966; and

(ii) Must not be identified as a flag state targeted for additional port state control action by the Coast Guard or any regional port state control secretariat.

(6) The classification society must use a system to—

(i) Make its safety records and those of persons acting on behalf of the classification society available to the Coast Guard in electronic format;

(ii) Provide its safety records and those of persons acting on behalf of the classification society to another classification society that requests those records for the purpose of conducting surveys of vessels; and

(iii) Request the safety records of a vessel to be surveyed from any other classification society that previously surveyed that vessel.

(b) Where sufficient performance records are not available from a regional port state control secretariat, the Coast Guard may consider an equivalent safety performance indicator proposed by the classification society seeking approval.

§ 2.45–20 Probation, suspension, and revocation.

(a) A classification society approved for the purpose of this subpart must maintain the minimum requirements for approval set forth in § 2.45–15.

(b) If an approved classification society fails to maintain compliance with paragraph (a) of this section, the Coast Guard may place the classification society approval on probation, or suspend or revoke the classification society's approval, as appropriate.

(c) *Probation.* A classification society on probation is approved for the

purpose of this subpart. The probation continues until the next review of the classification society's compliance with paragraph (a) of this section.

(1) If the review shows that compliance with paragraph (a) of this section is achieved, the probation may end.

(2) If the review shows significant improvement but compliance with paragraph (a) of this section is not achieved, the probation may be extended.

(3) If the review does not show significant improvement, and compliance with paragraph (a) of this section is not achieved, the approval may be suspended.

(d) *Suspension.* A classification society whose approval is suspended is not approved for the purpose of this subpart. Suspension will continue until the next review of the classification society's compliance with paragraph (a) of this section.

(1) If the review shows compliance with paragraph (a) of this section, the classification society's approval may be restored.

(2) If the review shows significant improvement toward compliance with paragraph (a) of this section, the suspension may be extended.

(3) If the review does not show significant improvement and compliance with paragraph (a) of this section, the classification society's approval may be revoked.

(e) *Revocation.* A classification society whose approval is revoked is not approved for the purpose of this subpart. The classification society may reapply for approval when the requirements of § 2.45–15 are met.

(f) The Coast Guard's Office of Design and Engineering Standards (CG–ENG) administers probations, suspensions, and revocations and makes all related notifications to affected classification societies.

§ 2.45–25 Application for approval.

(a) An application for approval must be made in writing and in the English language to U.S. Coast Guard, Commandant (CG–ENG), Office of Design and Engineering Standards, 2100 Second Street SW. Stop 7126, Washington DC 20593–7126.

(b) The application must—

(1) Indicate the type of work the classification society intends to perform on vessels in the United States;

(2) Include documentation demonstrating that the classification society complies with § 2.45–15;

(3) Contain a list of the vessels surveyed by the classification society over the previous 3 calendar years. The list must include vessel names, flags, and IMO numbers, as well as initial vessel inspections and detentions; and

(4) Provide a summary of the safety records of vessels the classification society surveys for each of the previous 3 calendar years, including initial vessel inspections and detentions for all data contained in regional port state control Memoranda of Understanding (MOU) and other port state control data sources, including the U.S. Coast Guard.

(c) An application submitted in accordance with 46 CFR part 8, subpart B satisfies the application requirements of paragraph (a) of this section, provided the applicant:

(1) Has been notified in writing by the Commandant that it met the criteria to be a recognized classification society, and its recognized status has not been revoked, under 46 CFR part 8, subpart B;

(2) Submits in writing and in the English language to the address in paragraph (a) of this section a statement that the applicant is applying for approval under this subpart; and

(3) Certifies in the submission under paragraph (c)(2) of this section that the information in the application submitted under 46 CFR part 8, subpart B remains valid.

§ 2.45–30 Penalties.

The owner, charterer, managing operator, agent, master, or individual in charge of a vessel that employs a classification society to review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States is subject to civil penalties in accordance with Title 46 U.S.C. 3318 if the classification society is not approved by the Coast Guard under this subpart.

Dated: July 26, 2012.

J.G. Lantz,

Director of Commercial Regulations and Standards, U. S. Coast Guard.

[FR Doc. 2012–19376 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 563

[Docket No. NHTSA–2012–0099]

RIN 2127–AL14

Event Data Recorders

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

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On August 5, 2011, the agency published a final rule amending the requirements for voluntarily installed event data recorders (EDRs) established in August 2006. In response to the August 2011 final rule, the agency received three petitions for reconsideration from the Alliance of Automobile Manufacturers, the Automotive Safety Council, and Honda Motor Co., LTD. The Association of Global Automakers, Inc. Technical Affairs Committee, and Nissan North America, Inc. both submitted comments in support of the petitioners' requests. After careful consideration, the agency is granting some aspects of the petitions, and denying others. This document amends the final rule accordingly.

DATES: *Effective Date:* The amendments in this rule are effective October 9, 2012.

Compliance Dates: Except as provided below, light vehicles manufactured on or after September 1, 2012 that are equipped with an EDR and manufacturers of those vehicles must comply with this rule. However, vehicles that are manufactured in two or more stages or that are altered are not required to comply with the rule until September 1, 2013. Voluntary compliance is permitted before that date.

Petitions: If you wish to submit a petition for reconsideration of this rule, your petition must be received by September 24, 2012.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, 4th Floor, Washington, DC 20590. Please see the Privacy Act heading under Rulemaking Analyses and Notices.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues, contact:

David Sutula, Office of Crashworthiness Standards, NVS–112. Telephone: (202) 366–3273. Facsimile: (202) 366–7002.

For legal issues, contact: David Jasinski, Office of the Chief Counsel, NCC–112. Telephone: (202) 366–2992. Facsimile: (202) 366–3820.

Both persons may be reached by mail at the following address: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, 4th Floor, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background
II. Petitions for Reconsideration
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I. Background

In August 2006, NHTSA issued a final rule [1] amending 49 CFR part 563 (Part 563) to establish uniform performance requirements for the accuracy, collection, storage, survivability, and retrievability of onboard motor vehicle crash EDRs voluntarily installed in light passenger vehicles. Specifically, the regulation applies to passenger cars, multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating (GVWR) of 3,855 kg (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds) or less,[2] that are voluntarily equipped with an EDR. The 2006 final rule aimed to standardize the data obtained through EDRs so that such data would provide information to enhance the agency's understanding of crash events and safety system performance, thereby potentially contributing to safer vehicle designs and more effective safety regulations. The 2006 final rule was intended to be technology-neutral, so as to permit compliance with any available EDR technology that meets the specified performance requirements.

On January 14, 2008,[3] the agency responded to petitions for reconsideration on the August 2006 final rule, and made the following amendments to Part 563:

- Clarified the event storage definitions to alleviate any uncertainties in multiple event crashes;
- Revised certain sensor ranges and accuracies to reflect current state of the art technologies;
- Clarified the recorded data reporting format;
- Specified vehicle storage conditions during compliance testing;
- Clarified the required data elements and scope of covered sensors; and
- Revised the effective date to provide sufficient time for manufacturers and suppliers to comply with the rule.

The agency made these changes to encourage a broad application of EDR technologies in motor vehicles and maximize the usefulness of EDR data for vehicle designers, researchers, and the medical community, without imposing unnecessary burdens or deterring future improvements to EDRs that have been voluntarily installed. The 2008 final rule also provided two additional years of lead time to provide manufacturers more time to implement the necessary changes to EDR architectures within their normal product development cycles.[4]

On August 5, 2011,[5] the agency published a final rule responding to three petitions for reconsideration and made the following clarifications and amendments to Part 563:

- Removed the required standardization of the reporting requirements for all acceleration data requirements to address certification issues with data clipping, filtering and phase-shifting;
- Clarified the application of sensor tolerances to within the range of the applicable sensor;
- Clarified our position regarding exclusion of peripheral sensors from the reporting requirements for EDRs;
- Clarified the event storage definition to alleviate uncertainties in multiple event crashes;
- Revised requirements for the capture of event data in crashes that:

  - Involve side or side curtain/tube air bags such that EDR data would only need to be locked if the vehicle also captures lateral delta-V data, and
  - Involve non-reversible deployable restraints other than frontal, side or side/curtain tube air bags such that EDR data would not need to be locked at the option of the manufacturer,

- Clarified that any non-reversible deployable restraint may serve as an event trigger;
- Revised the minimum range requirement for the ''Steering input'' data element from an angular basis to a percentage basis; and
- Made other minor technical and editorial corrections.

In response to the 2011 final rule, the agency received three petitions for reconsideration [6] from the Alliance of Automobile Manufacturers (Alliance), the Automotive Safety Council [7] (ASC), and Honda Motor Co., LTD (Honda). The Association of Global Automakers, Inc. Technical Affairs Committee (GAM), and Nissan North America, Inc. (Nissan) both submitted comments in support of the petitioners' requests. After careful consideration, the agency is granting some aspects of the petitions, and denying others. This document amends the final rule accordingly.

II. Petitions for Reconsideration

A. Steering Input

Based on a petition for reconsideration from Bosch, the 2011 final rule modified the format and range of the steering input data element in Table III from a range of -250 degrees clockwise (CW) to 250 degrees counterclockwise (CCW) with a resolution specification of 1 percent to a percentage of the lock-to-lock steering wheel angle of ± 100 percent with a 1 percent range. The Alliance and Honda petitioned the agency to revert the range specification to the original range of -250 degrees clockwise (CW) to 250 degrees counterclockwise (CCW) with a resolution specification of 5 degrees. In its petition the Alliance stated that steering wheel angle sensors report the actual steering wheel angle in degrees. In order for the EDR to report the steering input in percent, the EDR module would need to have information about the vehicle's total lock-to-lock steering wheel angle capability. However, the total lock-to-lock steering wheel angle may vary not only from one vehicle model to another, but also within a vehicle trim line.

The Alliance added that the same vehicle trim line with a different suspension package or gear box also might have a different total lock-to-lock angle and each vehicle line would need to be specifically calibrated in order for the EDR to report steering input as a percentage based on that vehicle's steering wheel rotation capability. The Alliance went on to state that implementing the new EDR requirement to report steering input in percent would impose an unnecessary complex proliferation of EDR calibrations to match vehicle builds.

Honda noted that in addition to the variability both between and within vehicle trim lines, steering angle sensors simply detect and display the actual rotation angle of the steering wheel and do not detect if the steering wheel is in the locked position. Honda stated that it could not report steering input as a percentage value without drastic changes to vehicle steering system design and incorporation of new steering angle sensors. Both Nissan and GAM submitted comments in support of the Alliance and Honda petitions to reinstate the original input range to −250 degrees CW to 250 degrees CCW with a resolution specification of 5 degrees.

[1] 71 FR 50998.

[2] Walk-in van-type trucks or vehicles designed to be sold exclusively to the U.S. Postal Service are excluded.

[3] 73 FR 2168.

[4] NHTSA issued a **Federal Register** notice on February 8, 2008 (73 FR 8408) to correct the placement of decimal points for data in Table II of the final rule.

[5] 76 FR 47478.

[6] See Docket number: NHTSA–2011–0106.

[7] Formerly the ASC was known as the Automotive Occupant Restraints Council.

Bosch has submitted a letter in support of the Honda and Alliance petitions for reconsideration expressing its agreement with the petitioners' arguments.[8] In its letter and in an ex-parte meeting with the agency, Bosch reiterated the other petitioners' concerns that the data element change may require additional calibration and software changes. It noted that the majority of electronic stability control (ESC) systems utilize steering input information in degrees, not percentages. It stated that manufacturers may not have enough time to implement this change, and as a result may have to remove the steering wheel angle data from the EDR log.

SAE International (SAE) submitted to the 2011 final rule docket what they described as a technical amendment to the steering input parameter. Its submission supports a return to the reporting of a ± 250 degrees steering wheel angle. However, it indicated that the sign convention for the direction of rotation should be reversed such that it should be reported as 250 degrees CW to − 250 degrees CCW. It indicated that a CW positive sign is consistent with a Z axis down (into the steering wheel) philosophy explained in SAE Recommended Practice J670, ''Vehicle Dynamics Terminology,'' and well as the philosophy being used to update the EDR parameter definitions in SAE Recommended Practice J1698–1, ''Event Data Recorder—Output Data Definition.''

Finally, SAE additionally requested that the accuracy of this data element be modified from ± 5 percent to the larger of ± 5 degrees or ± 5 percent of the reading. SAE stated that this change would add clarity to the accuracy specification while assuring that it is not too small for small steering angles.

B. Data Clipping Flag

All three petitioners requested that the agency consider delaying the requirement that an EDR must flag the first occurrence of input that saturates or clips the sensor. The Alliance and Honda agreed with the agency's intention to record the timing of when the design range of a sensor is exceeded. However, each petitioner commented that it would be too difficult to complete the necessary system programming within the 12-month interval between the August 5, 2011 final rule and the September 1, 2012 effective date of Part 563. Honda requested the agency delay this requirement for 1 year, while the Alliance and GAM requested a 2-year delay.

Honda stated that given the extensive ramifications of a software modification, they investigated the feasibility of detecting the time of a data clipping occurrence through the data retrieval tool. They stated that the result of this investigation indicated that it is not feasible to accurately capture the time of data clipping due to the low frequency in which the EDR records the data that is available for imaging by the tool (100 Hz).

C. End of Event Time

The Alliance commented that the revisions to the ''End of event time'' definition to be based on the resultant vehicle delta-V will affect both the data reporting requirements and the capture and storage requirements for EDRs. The ASC noted that this change could require a real-time calculation to determine when the resultant has been met under all conditions. Both the Alliance and the ASC noted that this may result in changes to the EDR software and require evaluation prior to implementation. Honda noted that certain strategies would determine the end of event when both the lateral and the longitudinal delta-V fall below the 0.8 km/h (0.5 mph) limit. In this case, the end of event determined by the EDR algorithm may be marginally earlier than specified in Part 563. The Alliance and Honda proposed that the agency consider revising the end of event definition as follows:

> End of event time means the moment at which (1) the cumulative longitudinal delta-V within a 20 ms time period becomes 0.8 km/h (0.5 mph) or less, and (2) for vehicles that record ''delta-V lateral'', the cumulative lateral delta-V within a 20 ms time period becomes 0.8 km/h (0.5 mph) or less, or (3) the crash detection algorithm of the air bag control unit resets.

The GAM supported both the Alliance and Honda petitions to make this change to the end of event time definition.

D. Occupant Size Classification

Both the Alliance and Honda requested clarification on the revisions to the occupant size classifications definition. They stated that the current definition is misleading in that it may now include the 5th percentile female (as defined in 49 CFR part 572, subpart O) in the same category as an adult, particularly in the driver's designated seating position. The GAM supported the Alliance and Honda petitions. The petitioners requested that the agency clarify if, in fact, it intended to include 5th percentile females in the larger occupant category.

E. Non-Reversible Deployable Restraints

The Alliance and ASC petitioned the agency to clarify the requirements for data capture by EDRs in events utilizing non-reversible deployable restraints other than air bags. They stated their belief that the agency intended to allow capture and recording of deployments of devices such as pretensioners at the option of the manufacturer, but that the current regulatory text in 49 CFR 563.9(b) does not specify this optional nature. The ASC asked for clarification on whether or not such non-reversible restraint deployments would be required to be locked. The GAM supported the Alliance petition, and recommended that the agency adopt the Alliance proposal to codify the optional nature of non-air bag, non-reversible restraint deployments.

F. Multi Event Storage

The ASC requested clarification on the locking of events involving side impact air bags. It commented that the regulatory text[9] could be interpreted to mean that if a side impact deployment occurs first, it would be locked and a subsequent secondary frontal air bag deployment would not be recorded. It further suggested that this would not be in keeping with the agency's intent to record frontal air bag deployments. The GAM supported the ASC request for clarification.

G. Technical Workshop

Honda and GAM requested that the agency consider holding a technical workshop to ensure that all stakeholders are properly prepared to comply with Part 563 given the myriad complex issues and iterations of the regulation. GAM added that such an exchange would aid in resolving any additional technical issues in the most expeditious manner possible.

H. Compliance Test Procedures

Honda, ASC, and GAM urged the agency to publish a compliance test procedure for Part 563 as soon as possible. Without a test procedure, they noted that it will be very difficult to maintain consistent and reliable compliance across the industry. The ASC added that NHTSA should harmonize the test procedure for Part 563 with the appropriate test procedures for the Society of Automotive Engineers (SAE) recommended practices.

[8] See Docket No. NHTSA–2011–0106.

[9] See 49 CFR 563.9, Data capture.

III. Analysis and Agency Decision

A. Steering Input

Steering input with respect to Part 563 is an optional data element used to determine the driver's intent prior to a crash. In its petition for reconsideration of the 2008 final rule, Bosch commented that the Table III accuracy and resolution requirements for the steering input data element are inconsistent with other data elements. It recommended that the agency revise the range definition for this data element to ± 100 percent. In response, the agency revised the minimum range requirement for the ''Steering input'' data element from −250 degrees CW to 250 degrees CCW to a value of ± 100 percent in Table III in the 2011 final rule. We stated we agreed with Bosch that this change would be more consistent with the accuracy and resolution requirements being expressed as percentages. We also believed the change would better address state-of-the-art active steering systems where the steering wheel angle and tire position may not correlate.

In consideration of the Alliance and Honda petitions for reconsideration of the 2011 final rule on the issue of steering input and the supporting information subsequently provided by Bosch, we are now reverting back to the steering input data element range of −250 degrees CW to 250 degrees CCW that was in the 2008 final rule. The change to the range made in the 2011 final rule was not intended to add unnecessary complexity to the vehicle's EDR. At the time of our earlier decision, we agreed with the need for desired consistency with other data elements (such as throttle and accelerator pedal position) and Bosch's petition for this change did not speak to the vehicle trim line implications and the complexities that would result.

We are not making this change in response to comments suggesting that the rule would require drastic changes in steering design. We believe that the reporting of angle as a percentage of full lock to the tolerance required could be implemented by a software change in the download tool and knowledge of the full lock angle for the vehicle make/model.

At the time of our analysis for the 2011 final rule, the majority of EDR data collected did not include steering input in the vehicle pre-crash data set. As a result, the agency had little practical experience with manufacturer plans for use of the voluntary steering input data element. However, after reviewing more recent EDR crash data where the pre-crash steering input was captured, we believe the original steering input range measured in degrees may be a more practical indicator. While the same information could be obtained from a percentage value, this would require knowledge of the number of degrees to fully lock in each direction. Rather, we believe it would be more convenient to crash investigators to have the degree information without having to seek out the additional information about the full lock angle from the vehicle manufacturer or other means. If an investigator wishes to know the angle as percentage of full lock, they can take the extra step to get the full lock angle and do the conversion.

We note that no change was made based upon SAE's comments. We have considered their comments and suggested ''technical amendments.'' However, we do not believe the changes suggested by SAE could be considered technical amendments. In addition, the submission was received outside of the 45-day period for filing a petition for reconsideration. As such, we will treat it as a petition for rulemaking and will consider it under our plans for publishing an advance notice of proposed rulemaking in the near future to explore the potential for, and future utility of, capturing additional EDR data in light vehicles.

B. Data Clipping Flag

We agree with Honda, the Alliance, ASC, and GAM that the data clipping flag requirement should be delayed by one year.

In the 2011 final rule, the agency addressed the issue of data clipping that may occur during extreme crash events, or even for brief periods of time during crash testing, by revising footnote 1 of Table III to require manufacturers to report when sensors first exceed their design range. The 2011 final rule, however, left the manner by which the clipping is indicated up to the vehicle manufacturer and did not limit the potential methods for achieving this requirement. Instead, we provided the examples of a flag on the data trace, or an additional reported field indicating the timing of the clipping.

The Alliance, ASC, and GAM both asserted that, although they were supportive of the data clipping flag requirement, that modifications, including new software, will be necessary in order to meet this requirement. The Alliance and GAM stated that an additional year is necessary to make these modifications. ASC requested that the data clipping requirement be delayed or eliminated until it can be properly studied. Honda indicated that the data retrieval tool cannot simply be reprogrammed to detect data clipping and report it. It further explained that the restraint control systems developed to properly operate the occupant restraint systems were not designed to capture the time at which the sensor inputs exceed their design range. It also stated that it is not feasible to accurately capture the saturation timing via a data retrieval tool because of the low sampling rate of the EDR.

We agree with Honda, the Alliance, ASC, and GAM that modifications may be necessary to existing EDRs in order to meet the data clipping flag. In particular, Honda provided a reasoned explanation of the software modifications that would be necessary to comply with the data clipping flag requirement and why an additional year is necessary. Although we believe that it may be feasible to use the data retrieval tool to detect data clipping to a level of accuracy that would allow manufacturers to report delta-V with the required accuracy, we understand that the use of the data retrieval tool to flag the clipping may provide some short-term technical challenges. Therefore, we are providing one extra year of lead time for this particular requirement to give manufacturers additional flexibility.

C. End of Event Time

We are denying the Alliance, ASC, and Honda petitions to reconsider amendments to the definition for an end of event. The petitioners state that the addition of ''resultant'' to the definition may marginally affect the determination of the end of an event. The Alliance and GAM noted that not all EDRs capture lateral delta-V and that those vehicles that do capture lateral delta-V may not currently calculate the resultant. They stated that calculating the resultant delta-V could necessitate additional software changes, delaying the ability of the manufacturers to comply with Part 563.

The agency agrees that not all EDRs capture lateral delta-V. However, we note that in these cases, the resultant delta-V would simply be the longitudinal delta-V. For all other cases, we believe there is sufficient latitude in the definition for end of event for vehicle manufactures to institute an EDR strategy that meets the definition without undue burden. We note that manufacturers ultimately determine how the crash detection algorithm resets. Therefore, in cases where both lateral and longitudinal delta-V data are collected, manufacturers may opt to determine when the end of the event has occurred via the resultant cumulative delta-V, or via any method by which they choose to reset the crash

detection algorithm. In the worst case, the vehicle will need to capture the full 300 ms of delta-V data, which has been required by Part 563 since the 2006 final rule.

D. Occupant Size Classification

We are denying the Honda and Alliance petitions to reconsider the occupant size classifications. Since the proposed rulemaking [10] stage of Part 563, the agency has intended for the occupant size classification to be inclusive of the 5th percentile female as defined in 49 CFR part 572, subpart O. The revisions enacted in the 2011 final rule were simple clarifications to the original agency intent. We do not believe that there is a conflict with the resolution for this data element in Table III. Therefore, this data element will be used to report if the occupant in a designated seating position would meet the criteria of the 5th percentile female or larger.

E. Non-Reversible Deployment of Restraints

We are denying the Alliance and ASC petitions to clarify how the deployment of non-reversible restraints other than air bags are recorded. We believe that section 563.9(b) is clear that when a memory buffer is available, EDRs must capture and record current event data that does not involve deployment of an air bag. If the memory buffers are full, manufacturers may either overwrite any previous data that does not involve deployment of an air bag, or not record the current event data if it does not involve deployment of an air bag. In this manner, manufacturers may prioritize the capture of events that do not involve deployments of air bags, but do deploy other non-reversible restraints regardless of type.

F. Multi-Event Storage

In response to the ASC request for clarification on the locking of events involving side impact air bags, we agree that if a side impact deployment occurs first and the EDR records lateral delta-V, this event would need to be locked; however, a subsequent event (including the deployment of a frontal air bag) would not need to be recorded, but it could be allowed at the option of the manufacturer. We refer to the preambles of the previous rulemakings on the subject. Specifically, we stated the following in the preamble to the 2011 final rule.[11]

> * * * ''In a side or side curtain/tube air bag deployment crash, where lateral delta-V is recorded by the EDR, capture and record the current deployment data. The memory for the air bag deployment event must be locked to prevent any future overwriting of the data.✖ Thus, any frontal air bag deployment, or any side, or side curtain/tube air bag deployment where lateral delta-V is recorded by the EDR, would not require the EDR to record a second, subsequent event, although it would allow such recording. We note that the phrase 'up to two events' remains in § 563.9(b) and so there continues to be an obligation to record multiple non-air bag deployment events.

G. Technical Workshop

In response to the Honda and GAM request that the agency consider holding a technical workshop to ensure that all stakeholders are properly prepared to comply with Part 563, we do not believe that a technical workshop is needed at this time. We remain open to this possibility if the need presents itself in the future.

H. Compliance Test Procedures

The agency is working with the SAE EDR committee to ensure that any compliance test procedure we produce would consider the SAE J1698 Vehicle Event Data Interface recommended industry practices, as appropriate. The test procedure and accompanying documents will be provided in the docket [12] for the 2011 final rule.

IV. Rulemaking Analyses and Notices

We have considered the impact of this rulemaking action under Executive Order 12866, ''Regulatory Planning and Review,'' Executive Order 13563, ''Improving Regulation and Regulatory Review,'' and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under those two Executive Orders. It has been determined not to be ''nonsignificant'' under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rule makes several technical changes to the regulatory text of 49 CFR part 563, and does not increase the regulatory burden of manufacturers. A complete statement of the costs and benefits of the introduction of Part 563 are available in the August 2006 final rule and the accompanying Final Regulatory Evaluation.[13]

The agency has discussed the relevant requirements of the Vehicle Safety Act, the Regulatory Flexibility Act, Executive Order 13132 (Federalism), Executive Order 12988 (Civil Justice Reform), Executive Order 13045 (Protection of Children from Health and Safety Risks), the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, Unfunded Mandates Reform Act, and the National Environmental Policy Act in the August 2006 final rule cited above. Those discussions are not affected by these technical changes.

Privacy Act

Please note that anyone is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit *http://www.dot.gov/privacy.html.*

List of Subjects in 49 CFR Part 563

Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

Regulatory Text

In consideration of the foregoing, 49 CFR part 563 is amended as follows:

PART 563—EVENT DATA RECORDERS

■ 1. The authority citation for part 563 continues to read as follows:

Authority: 49 U.S.C. 322, 30101, 30111, 30115, 30117, 30166, 30168; delegation of authority at 49 CFR 1.50.

■ 2. In § 563.8, revise Table III in paragraph (a) to read as follows:

§ 563.8 Data format.

(a) * * *

[10] In the 2004 Part 563 NPRM, the data element was ''Occupant size driver occupant 5th female size y/n.''

[11] See 76 FR 47482.

[12] See Docket No. NHTSA–2011–0106 at *www.regulations.gov.*

[13] See 71 FR 51041; Docket No. NHTSA–2006–25666–0002.

TABLE III—REPORTED DATA ELEMENT FORMAT

Data element	Minimum range	Accuracy [1]	Resolution
Lateral acceleration	At option of manufacturer	At option of manufacturer	At option of manufacturer.
Longitudinal acceleration	At option of manufacturer	At option of manufacturer	At option of manufacturer.
Normal Acceleration	At option of manufacturer	At option of manufacturer	At option of manufacturer.
Longitudinal delta-V	−100 km/h to +100 km/h	± 10%	1 km/h.
Lateral delta-V	−100 km/h to +100 km/h	± 10%	1 km/h.
Maximum delta-V, longitudinal	−100 km/h to +100 km/h	± 10%	1 km/h.
Maximum delta-V, lateral	−100 km/h to +100 km/h	± 10%	1 km/h.
Time, maximum delta-V, longitudinal	0–300 ms, or 0 − End of Event Time plus 30 ms, whichever is shorter.	± 3 ms	2.5 ms.
Time, maximum delta-V, lateral	0–300 ms, or 0 − End of Event Time plus 30 ms, whichever is shorter.	± 3 ms	2.5 ms.
Time, maximum delta-V, resultant	0–300 ms, or 0 − End of Event Time plus 30 ms, whichever is shorter.	± 3 ms	2.5 ms.
Vehicle Roll Angle	−1080 deg to +1080 deg	± 10%	10 deg.
Speed, vehicle indicated	0 km/h to 200 km/h	± 1 km/h	1 km/h.
Engine throttle, percent full (accelerator pedal percent full).	0 to 100%	± 5%	1%.
Engine rpm	0 to 10,000 rpm	± 100 rpm	100 rpm.
Service brake	On or Off	N/A	On or Off.
ABS activity	On or Off	N/A	On or Off.
Stability control	On, Off, or Engaged	N/A	On, Off, or Engaged.
Steering input	−250 deg CW to + 250 deg CCW	± 5%	± 1%.
Ignition cycle, crash	0 to 60,000	± 1 cycle	1 cycle.
Ignition cycle, download	0 to 60,000	± 1 cycle	1 cycle.
Safety belt status, driver	On or Off	N/A	On or Off.
Safety belt status, right front passenger	On or Off	N/A	On or Off.
Frontal air bag warning lamp	On or Off	N/A	On or Off.
Frontal air bag suppression switch status, right front passenger.	On, Off, or Auto	N/A	On, Off, or Auto.
Frontal air bag deployment, time to deploy/ first stage, driver.	0 to 250 ms	±ms	1 ms.
Frontal air bag deployment, time to deploy/ first stage, right front passenger.	0 to 250 ms	± 2 ms	1 ms.
Frontal air bag deployment, time to nth stage, driver.	0 to 250 ms	± 2 ms	1 ms.
Frontal air bag deployment, time to nth stage, right front passenger.	0 to 250 ms	± 2 ms	1 ms.
Frontal air bag deployment, nth stage disposal, driver.	Yes or No	N/A	Yes or No.
Frontal air bag deployment, nth stage disposal, right front passenger.	Yes or No	N/A	Yes or No.
Side air bag deployment, time to deploy, driver.	0 to 250 ms	± 2 ms	1 ms.
Side air bag deployment, time to deploy, right front passenger.	0 to 250 ms	± 2 ms	1 ms.
Side curtain/tube air bag deployment, time to deploy, driver side.	0 to 250 ms	± 2 ms	1 ms.
Side curtain/tube air bag deployment, time to deploy, right side.	0 to 250 ms	± 2 ms	1 ms.
Pretensioner deployment, time to fire, driver.	0 to 250 ms	± 2 ms	1 ms.
Pretensioner deployment, time to fire, right front passenger.	0 to 250 ms	± 2 ms	1 ms.
Seat track position switch, foremost, status, driver.	Yes or No	N/A	Yes or No.
Seat track position switch, foremost, status, right front passenger.	Yes or No	N/A	Yes or No.
Occupant size classification, driver	5th percentile female or larger	N/A	Yes or No.
Occupant size classification, right front passenger.	Child	N/A	Yes or No.
Occupant position classification, driver	Out of position	N/A	Yes or No.
Occupant position classification, right front passenger.	Out of position	N/A	Yes or No.
Multi-event, number of event	1 or 2	N/A	1 or 2.
Time from event 1 to 2	0 to 5.0 sec	0.1 sec	0.1 sec.
Complete file recorded	Yes or No	N/A	Yes or No.

[1] Accuracy requirement only applies within the range of the physical sensor. For vehicles manufactured after September 1, 2014, if measurements captured by a sensor exceed the design range of the sensor, the reported element must indicate when the measurement first exceeded the design range of the sensor.

* * * * *

Issued on: July 19, 2012.

David L. Strickland,

Administrator.

[FR Doc. 2012–19580 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 77, No. 154
Thursday, August 9, 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 HOMELAND SECURITY

8 CFR Part 235

[Docket No. USCBP–2012–0030]

RIN 1651–AA95

Extension of Border Zone in the State of New Mexico

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under current Department of Homeland Security (DHS) regulations, certain nonimmigrant Mexican nationals presenting a Border Crossing Card, or other proper immigration documentation, are not required to obtain a CBP Form I–94 (Form I–94), Arrival/Departure Record, if they remain within 25 miles of the border (75 miles in Arizona). This document proposes to amend the DHS regulations to extend the distance these visitors may travel in New Mexico without obtaining a Form I–94 from 25 miles to 55 miles. This change is intended to promote commerce and tourism in southern New Mexico while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States.

DATES: Written comments must be submitted by October 9, 2012.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2012–0030.
- *Mail:* Regulations and Rulings, Office of International Trade, Customs and Border Protection, Attention: Border Security Regulations Branch, 799 9th Street NW., 5th Floor, Washington, DC 20229–1179.

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

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

FOR FURTHER INFORMATION CONTACT: Colleen Manaher, CBP Office of Field Operations, telephone (202) 344–3003.

SUPPLEMENTARY INFORMATION:

Public Participation

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

Executive Summary

Under current Department of Homeland Security (DHS) regulations, certain nonimmigrant Mexican nationals presenting a Border Crossing Card, or other proper immigration documentation, are not required to obtain a CBP Form I–94 (Form I–94), Arrival/Departure Record, if they remain within 25 miles of the U.S.-Mexico border (75 miles in Arizona). This region is known as the border zone and includes portions of Arizona, California, New Mexico, and Texas. Although the border zone was intended to promote the economic stability of the border region by allowing for freer flow of travel for Mexican visitors with secure documents, New Mexico has no metropolitan areas and few tourist attractions within 25 miles of the border and thus benefits very little from the current 25-mile border zone. Consistent with Executive Order 13563, in order to facilitate commerce, trade, and tourism in southern New Mexico, while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States, DHS is proposing to extend the distance certain Mexican nationals admitted to the United States as nonimmigrant visitors may travel in New Mexico without obtaining a Form I–94 from 25 miles to 55 miles from the U.S.-Mexico border. In addition to promoting the economy in this area and facilitating legitimate travel, the proposed extension would increase CBP's administrative efficiency by reducing unnecessary paperwork burdens associated with the I–94 process and allowing CBP to focus resources on security enhancing activities to the greatest extent possible.

Therefore, pursuant to the immigration rulemaking authority found in 8 U.S.C. 1103, DHS is proposing to amend 8 CFR 235.1(h) to expand the area in which certain Mexican nationals may travel without having to obtain a Form I–94 from 25 miles to 55 miles from the U.S.-Mexico border in the state of New Mexico.

The majority of Mexican nationals who are exempt from the Form I–94 requirement possess and apply for admission to the United States with a Border Crossing Card (BCC). The BCC is issued by the Department of State and is an approved document to establish identity and citizenship at the border and also serves as a B–1/B–2 visitor's visa. The BCC includes many security features such as vicinity-read Radio Frequency Identification (RFID) technology and a machine-readable zone; using these features, CBP is able to electronically authenticate the BCC and biometrically compare the biometrics, photo and fingerprints, of the individual presenting the BCC against State Department issuance records in order to confirm that the document is currently valid and that the person presenting the document is the one to whom it was issued.

The proposed extension of the border zone would not change the threshold requirements for admission into the

United States, including permanent residence abroad, intent and duration of the visit, and eligibility. It would also not affect the 30-day time limit of the border zone applicable to BCC holders or the 72-hour time limit of the border zone applicable to Mexican nationals presenting a visa and passport.

Background

Title 8 of the Code of Federal Regulations (CFR) contains DHS regulations regarding immigration. Under § 235.1(h)(1) of the DHS regulations (8 CFR 235.1(h)(1)), each arriving nonimmigrant who is admitted to the United States is issued a Form I–94, Arrival/Departure Record, as evidence of the terms of admission, subject to specified exemptions. Among other things, the Form I–94 collects information about the visitor's destination in the United States. This form is not required for a Mexican national admitted as a nonimmigrant visitor with certain documentation if he or she remains within 25 miles of the U.S.-Mexico border (75 miles within Arizona), for no more than either 30 days or 72 hours, depending upon the type of travel document the nonimmigrant visitor possesses. The area bounded by these limits is referred to in this document as the border zone. To be admitted to the border zone without a Form I–94, a Mexican national must be in possession of a Form DSP–150, B–1/B–2 Visa and Border Crossing Card (BCC), or a passport and valid visa, or for a Mexican national who is a member of the Texas Band of Kickapoo Indians or Kickapoo Tribe of Oklahoma, a Form I–872 American Indian Card. *See* 8 CFR 235.1(h)(1)(iii) and (v). To obtain these documents, applicants must be vetted extensively by DHS and/or the Department of State (DOS). The vetting process includes collection of information, such as fingerprints, photographs, and other information regarding residence, employment and reason for border crossing, and an interview, as well as security checks to identify any terrorism concerns, disqualifying criminal history, or past immigration violations.

Mexican nationals traveling beyond these specified zones, or who will remain beyond the time periods indicated above or seek entry for purposes other than as a temporary visitor for business or pleasure, are required to obtain and complete a Form I–94. At land border ports of entry, the Form I–94 issuance process requires a secondary inspection that includes review of travel documents, examination of belongings, in-depth interview, database queries, collection of biometric data, and collection of a fee (currently, $6.00). A Form I–94 issued at a land border is generally valid for multiple entries for six months.

History of the Border Zone

Since 1953, Mexico and the United States have agreed to make special accommodations for Mexican nationals who cross the U.S.-Mexico border into the immediate border area to promote the economic stability of the region. On November 12, 1953, the United States and Mexico entered into an agreement concerning the U.S.-Mexico border area, which included a provision allowing Mexican nationals who resided near the border to be issued border crossing-identification cards. These cards could be used for multiple applications for admission during the validity of the card. Although the agreement did not define the size of the border area, subsequent federal regulations have defined this region. In November 1982, the former Immigration and Naturalization Service (INS) promulgated regulations outlining a 25-mile border zone within which Mexican border crossing card holders could travel without obtaining a Form I–94. *See* 47 FR 49953. In 1999, INS extended the border zone from 25 miles to 75 miles in Arizona, as there are no metropolitan areas within 25 miles of the border in Arizona. *See* 64 FR 68616.

In addition to a geographic limit, the border zone also has a time limit. Prior to 2004, eligible Mexican nationals were permitted to enter the 25-mile border zone (75 miles in Arizona) for up to 72 hours without having to obtain a Form I–94. In 2004, CBP expanded this time limit to 30 days for Mexican nationals presenting a BCC. *See* 69 FR 50051. The increased time limit accommodated the realities of trade, tourism and commerce along the U.S.-Mexico border and promoted administrative efficiency. For other Mexican nationals admitted to the border zone without a Form I–94, including those presenting a visa and passport, CBP retained the 72-hour time limit.[1]

[1] Prior to the implementation of the Western Hemisphere Travel Initiative (WHTI), Mexican nationals were permitted by 8 CFR 212.1(c)(1)(ii) to enter the United States without a visa or passport if they were entering solely for the purpose of applying for a Mexican passport or other official Mexican document at a Mexican consular office on the United States side of the border. Mexican nationals entering the United States pursuant to 8 CFR 212.1(c)(1)(ii) could also be admitted to the border zone for up to 72 hours without obtaining a Form I–94. However, the WHTI land and sea final rule (73 FR 18384) eliminated this waiver of the visa and passport requirement.

The Border Crossing Card (BCC)

Before October 1, 2002, the term ''border crossing card'' was used to refer to several different documents. Section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and subsequent amendments, codified at 8 U.S.C. 1101(a)(6) and 8 U.S.C. 1101 note, changed the definition of a border crossing card to require the inclusion of a machine readable biometric identifier on all border crossing identification cards. The Enhanced Border Security and Visa Entry Reform Act of 2002 also established requirements for ''visa and entry document,'' as well as deployment and implementation at ports of entry to biometrically compare and authenticate such documents. *See* Pub. L. 107–173; 116 Stat. 543. Effective October 1, 2002, the Form DSP–150, B–1/B–2 Visa and Border Crossing Card became the border crossing card valid for entry into the United States. *See* 67 FR 71443. The BCC is an approved document to establish identity and citizenship at the border and also serves as a B–1/B–2 visitor's visa.

The currently issued BCC is a credit card-sized document, similar to a passport card, with a ten-year validity period and includes many security features such as vicinity-read Radio Frequency Identification (RFID) technology and a machine-readable zone; using these features, CBP is able to electronically authenticate the BCC and biometrically compare the biometrics, photo and fingerprints, of the individual presenting the BCC against State Department issuance records in order to confirm that the document is currently valid and that the person presenting the document is the one to whom it was issued.

The BCC is issued by DOS, and applicants must demonstrate that they have ties to Mexico that would compel them to return after a temporary stay in the United States. Applicants undergo a DOS interview, submit fingerprints, photographs, and information regarding residence, employment and reason for frequent border crossing. DOS issues approximately one million BCCs annually that incorporate RFID technology and other security features. At ports of entry, CBP officers can verify that the individual presenting the BCC is the authorized holder through biometric match (photo and/or fingerprints) and that the document is valid by comparison against DOS's issuance records in a shared database.

As specified in 8 CFR 212.1(c)(1)(i), a visa and passport are not required of a Mexican national who is in possession

of a BCC containing a machine-readable biometric identifier and who is applying for admission as a temporary visitor for business or pleasure from contiguous territory.[2] The majority of Mexican nationals who are exempt from the Form I–94 requirement possess and apply for admission to the United States with a BCC. The use of BCCs strengthens the integrity and security of the admissions process while allowing qualified persons who frequently cross the U.S.-Mexico border to be processed more efficiently at ports of entry. CBP seeks comment on this assumption.

Extension of the Border Zone in New Mexico

Although the border zone was intended to promote the economic stability of the border region by allowing for freer flow of travel for Mexican visitors with secure documents, New Mexico has no metropolitan areas and few tourist attractions within 25 miles of the border and thus benefits very little from the current 25-mile border zone. In order to facilitate commerce, trade, and tourism in southern New Mexico, while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States, CBP is proposing to extend the distance Mexican nationals admitted to the United States as nonimmigrant visitors may travel in New Mexico without obtaining a Form I–94 from 25 miles to 55 miles from the U.S.-Mexico border. Several cities, state parks, and a major university are located within the proposed expanded 55-mile border zone. This would facilitate travel and expand commercial activity within the State of New Mexico.

While the extension of the border zone to 55 miles from the U.S.-Mexico border would include most of Interstate Highway I–10, there is a short stretch of I–10 that is outside the 55-mile zone. Thus, to facilitate travel, CBP is also proposing to include a provision to include all of Interstate Highway I–10 in the state of New Mexico in addition to the extension to 55 miles from the border. A map of the proposed expanded border zone can be found in the docket for this rulemaking on *regulations.gov*.

This proposal will facilitate legitimate travel for Mexican visitors that arrive in the United States at a land border. At land borders, the I–94 application process occurs at the port of entry at secondary inspection and includes an interview with a CBP officer, fingerprinting, electronic vetting, paperwork, and the payment of a $6 fee. CBP estimates that this process takes 8 minutes to complete. Under the current 25-mile limit, Mexican business persons, tourists, or shoppers who wish to visit any metropolitan area in New Mexico must report for secondary inspection, spend the additional time required to obtain a Form I–94, and pay the $6 fee. If the limit is extended to 55 miles, Mexican nationals meeting the requirements for legal entry into the United States would be able to travel to metropolitan areas in New Mexico, such as the city of Las Cruces or the smaller town of Deming, and other destinations, without having to leave their vehicle, wait in line to undergo the additional I–94 application process at secondary inspection, and pay the fee.

Under the proposed rule, fewer people will need to obtain I–94s at ports of entry. As a result, in addition to promoting the economy in this area and facilitating legitimate travel, the proposed extension would increase CBP's administrative efficiency by reducing unnecessary paperwork burdens associated with the I–94 process and allowing CBP to focus resources on security enhancing activities to the greatest extent possible. CBP would benefit from the flexibility to allocate its resources as efficiently as possible, especially during times of increasing budgetary constraints. Reassigning officers from the administrative Form I–94 processing to core processing will allow more resources to be dedicated to enforcement operations. Thus, this rule would allow CBP to better allocate its resources while enhancing its enforcement posture. Travelers remain subject to questioning regarding intent and purpose of travel during inspection upon arrival at the port of entry.

This rule is also expected to improve efficiency at ports of entry and inland immigration checkpoints by minimizing the time it takes to review documents for legitimate travelers. Use of travel documents containing RFID technology, such as the BCC, contribute to reducing individual inspection processing time. Law enforcement queries regarding passenger name for persons with RFID travel documents, such as the BCC, are 20 percent faster than for persons with documents containing only a machine-readable zone, and 60 percent faster than manual entry of information from a paper document. Greater use of RFID travel documents such as the BCC would allow CBP to focus its efforts on higher risk individuals while providing efficiencies in the flow of legitimate trade and travel in the area.

In addition to the above economic and administrative benefits, CBP anticipates that this extension would enhance security in this region. This stems from the fact that the BCC is CBP's preferred method of identification for Mexican nationals entering the United States at land border ports of entry and this extension would encourage more visitors to New Mexico to use the BCC. Greater use of the BCC, compared with use of a passport and visa, enables CBP to identify more quickly whether travelers present a risk and allows CBP to more effectively focus its efforts on higher risk travelers, both at ports of entry and inland immigration checkpoints. As indicated above, the use of RFID technology in the BCC enables CBP to more quickly authenticate the documents, and thus helps CBP more quickly assess whether the traveler presents a risk. CBP seeks comment on this conclusion.

The extension of the border zone would not change the threshold requirements for admission into the United States, including permanent residence abroad, intent and duration of the visit, and eligibility. This extension would also not affect the 30-day time limit of the border zone applicable to BCC holders or the 72-hour time limit of the border zone applicable to Mexican nationals presenting a visa and passport.

Additional, Non-Substantive Amendments

In addition to the substantive amendments described above, CBP also proposes two technical corrections to § 235.1 of title 8 CFR. First, in paragraph (h)(1)(iii), we propose to correct the paragraph citation from (f)(1)(v) to (h)(1)(v), as this citation was inadvertently not changed when paragraph (f) was redesignated as paragraph (h) by the WHTI air final rule (71 FR 68412).

Second, we propose to update several references to § 212.1 of title 8 CFR to reflect changes contained in the WHTI land and sea final rule (73 FR 18384). That rule included a provision allowing Mexican nationals who are members of the Texas Band of Kickapoo Indians or Kickapoo Tribe of Oklahoma to present a Form I–872 American Indian Card in lieu of either a passport and visa or BCC at land and sea ports of entry when arriving from contiguous territory or adjacent islands. This new provision was placed in paragraph (c)(1)(ii) of § 212.1, the paragraph that formerly provided for visits to Mexican consular offices (see footnote 1 above). In the WHTI land and sea final rule, the cross-references to the old paragraph (c)(1)(ii)

[2] If the BCC traveler is applying for admission from other than contiguous territory, he or she must present a valid passport. *See* 8 CFR 212.1(c)(2)(i).

found in § 235.1(h)(1) were inadvertently left unchanged. The effect is that, under current regulations, Mexican national Kickapoo Tribe members presenting a Form I–872 American Indian Card are only permitted to enter the border zone for up to 72 hours. CBP considers the Form I–872 carried by Kickapoo Tribe members to be comparable to the BCC, and intended that Kickapoo Tribe members presenting the card would be admitted to the border zone for up to 30 days. To make these corrections, CBP proposes to change the cross-reference from § 212.1(c)(1)(i) to § 212.1(c)(1) in paragraphs (h)(1)(iii)(A) and (h)(1)(v)(A), and to remove the reference to § 212.1(c)(1)(ii) from paragraphs (h)(1)(iii)(B) and (h)(1)(v)(B). Likewise, proposed paragraph (h)(1)(v)(C) would include a cross-reference to § 212.1(c)(1).

Statutory and Regulatory Requirements

Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

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

Mexican citizens entering the United States in New Mexico at land border ports of entry may present a BCC or a passport and a visa to gain admissibility to the United States. Visitors intending to travel beyond the border zone, or longer than 30 days (72 hours for certain individuals) must also obtain an I–94 form and use it in conjunction with their BCC or passport and visa. If the traveler enters using a passport and visa, they may travel up to 25 miles from the border and may remain in the United States for up to 72 hours. If they enter using a BCC, they may travel up to 25 miles from the border and may stay for up to 30 days. If they obtain a Form I–94, they may travel anywhere in the United States and may stay for up to six months.

In practice, travelers either enter with a BCC and stay within the border zone or obtain an I–94, for use with a passport and visa or with a BCC, to go beyond the border zone. In 2011, about 900,000 Mexican citizens entered the United States in New Mexico. About sixty percent, or 540,000, of these travelers used a BCC. The remainder entered using an I–94 with their passport and visa. There were approximately 136,000 I–94s issued to Mexican citizens at New Mexico land border ports in 2011. Multiple trips are allowed during the I–94's validity period.

This rule proposes to expand the geographic limit for BCC holders. Under current regulations, BCC holders may travel anywhere within 25 miles of the border. This proposed rule would allow BCC holders to travel anywhere within 55 miles from the border or as far north as highway I–10, whichever is farther north. No new infrastructure is required to support this proposed change as CBP already has several ports of entry and inland immigration checkpoints in place throughout the state of New Mexico. In addition, local law enforcement officials have indicated that they do not anticipate any enforcement risks with expanding the geographic limit. Further, since this rule proposes to expand the area BCC holders may visit without an I–94, travelers who would have had to pay $6 and obtain an I–94 to travel to these cities would be able to travel without paying that fee and obtaining an I–94. Therefore, CBP does not anticipate any significant costs associated with this proposed rule. CBP seeks comment on whether or not there would be any additional costs associated with this proposed rule.

This expanded border zone would allow Mexican BCC holders to travel to many New Mexico destinations that they currently need an I–94 to access, including several cities, state parks, and a major university. To the extent that BCC holders are obtaining I–94s for the purpose of visiting destinations within the expanded border zone, they would need to apply for fewer I–94s under this proposed rule. As mentioned previously, at land borders the I–94 application process is done at the port of entry at secondary inspection and includes an interview with a CBP Officer, fingerprinting, electronic vetting, paperwork, and the payment of a $6 fee. CBP estimates that this process takes 8 minutes to complete. CBP maintains two ports of entry along the Mexican border in New Mexico—Columbus and Santa Teresa. Between 2010 and 2011, the port of Columbus issued an average of approximately 27,000 I–94 forms per year, and the port of Santa Teresa issued an average of approximately 114,000 I–94 forms per year. CBP does not know how many of the travelers currently required to obtain these forms would benefit from the expanded geographic limit, but it believes that the percentage who would benefit will be less than 25 percent. CBP seeks comment on this assumption. CBP believes the percentage will be significantly lower for those crossing at Santa Teresa. CBP seeks comment on this assumption. Still, eliminating the need for these travelers to leave the vehicle to undergo the additional I–94 application process at secondary and pay the $6 fee could be a significant savings for Mexican travelers who are affected and could benefit the travel and tourism industry in the U.S.-Mexico border zone. CBP seeks comment on the possible savings for Mexican travelers as well as the possible benefits of expanding the U.S.-Mexico border zone. CBP would not be adversely affected by this loss in I–94 fee revenue because this fee revenue is used exclusively to pay for the processing of the I–94. Therefore, the reduction in revenue would be offset by a reduction in workload.

Because this rule would make it unnecessary for some travelers to obtain an I–94, CBP would be able to inspect travelers more efficiently and focus its efforts on higher risk individuals. CBP expects this increase in efficiency to more than offset any new workload caused by a small increase in travelers to the United States that may result from this proposed change. The BCC is one of the most secure admissibility documents used at the border and allows for faster processing at both the port of entry and interior immigration checkpoints. BCC holders undergo extensive vetting by CBP and DOS. CBP can read the card very quickly to verify the validity of the card, the identity of the card holder, and other pertinent information about the card holder. A faster inspection would allow CBP to spend more time inspecting higher risk individuals and could therefore improve security. CBP seeks comment on this conclusion.

Perhaps the greatest benefit of this proposed rule is the potential for increased economic activity in New Mexico's border region. According to the U.S. Census Bureau's American Community Survey, the estimated poverty rate for the United States in

2006–2010 was 13.8 percent.[3] For the counties that would be most affected by this change, Doña Ana, Hidalgo, and Luna, the American Community Survey estimates poverty rates of 24.5 percent, 22.6 percent, and 32.8 percent, respectively. Much of the cross-border traffic is for the purpose of commerce. Mexican citizens travel to New Mexico for work, shopping, and recreation, among other things. Las Cruces, New Mexico's main population center in the proposed expanded border zone, and other smaller cities are at a disadvantage in attracting this traffic because they are outside of the current border zone. By comparison, the main population centers along the Arizona and Texas borders are within the current border zone (75 miles in Arizona and 25 miles in Texas). Thus, the current border zone creates significant disincentive for visitors from Mexico to engage in commerce in New Mexico. In addition, BCC holders can currently travel much of the highway I–10 corridor in Arizona, but are prevented from continuing into New Mexico unless they have an I–94. This rule would expand the border zone enough to allow BCC holders to travel on highway I–10 from Tucson, Arizona to Las Cruces, New Mexico and El Paso, Texas, which would benefit commerce in the entire region. CBP seeks comment on this assumption. This rule is expected to increase access to U.S. markets for Mexican travelers and is expected to result in increased travel through the New Mexico border region, which would lead to increased sales, employment, and local tax revenue. DHS requests public comment on the extent that this rule would increase economic activity in New Mexico's border region and how this rule, if finalized, would impact economic activity in the current BCC approved regions in Arizona and Texas.

In summary, by expanding the border zone for BCC holders, this rule would not impose any new costs on the public or on the United States government. Further, this rule is expected to reduce costs to visitors to the United States, improve security, and benefit commerce in a relatively impoverished region. CBP seeks comment on these conclusions.

The Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule directly regulates individuals and individuals are not considered small entities. In addition, this rule is purely beneficial to these individuals as it expands the area BCC holders may travel without needing to obtain an I–94. As explained above, DHS is not aware of any direct costs imposed on the public by expanding the geographic limit for BCC holders but is aware of a cost savings for the traveling public by expanding the geographic limit. CBP seeks comment on this conclusion.

Paperwork Reduction Act

An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. CBP anticipates that the new provisions in this Rule will result in a slight decrease in the number of I–94's (Arrival/Departure Record) filed annually. CBP Form I–94 was previously reviewed and approved by OMB in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under OMB Control Number 1651–0111.

The decrease in the burden estimate for CBP Form I–94 resulting from this Rule is:

Estimated Decrease in Number of Respondents: 12,450.

Estimated Time per Respondent: 8 minutes.

Estimated Decrease in Total Annual Burden Hours: 1,656.

Comments concerning the accuracy of this cost estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of Homeland Security, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Border Security Regulations Branch, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue NW. (Mint Annex), Washington, DC 20229.

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth in the preamble, CBP proposes to amend 8 CFR part 235 as set forth below.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. The general authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 and note, 1201, 1224, 1225, 1226, 1228, 1365a note, 1379, and 1731–32; Title VII of Pub. L. 110–229.

* * * * *

2. In § 235.1, revise paragraphs (h)(1)(iii), and (h)(1)(v)(A) and (B), and add paragraphs (h)(1)(v)(C) and (D) to read as follows:

§ 235.1 Scope of examination.

* * * * *

(h) *Form I–94, Arrival-Departure Record.* * * *

(1) * * *

(iii) Except as provided in paragraph (h)(1)(v) of this section, any Mexican national admitted as a nonimmigrant visitor who is:

(A) Exempt from a visa and passport pursuant to § 212.1(c)(1) of this chapter and is admitted for a period not to exceed 30 days to visit within 25 miles of the border; or

(B) In possession of a valid visa and passport and is admitted for a period not to exceed 72 hours to visit within 25 miles of the border;

(iv) * * *

(v) * * *

(A) Exempt from a visa and passport pursuant to § 212.1(c)(1) of this chapter and is admitted at the Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco or Douglas to visit within the State of Arizona within 75 miles of the border for a period not to exceed 30 days; or

(B) In possession of a valid visa and passport and is admitted at the Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco or Douglas to visit within the State of Arizona within 75 miles of the border for a period not to exceed 72 hours; or

(C) Exempt from visa and passport pursuant to § 212.1(c)(1) of this chapter and is admitted for a period not to exceed 30 days to visit within the State of New Mexico within 55 miles of the border or the area south of and including Interstate Highway I–10, whichever is further north; or

(D) In possession of a valid visa and passport and is admitted for a period not to exceed 72 hours to visit within the State of New Mexico within 55 miles of the border or the area south of

[3] U.S. Census Bureau, American Community Survey 5 year estimate (2006 to 2010), table S1701. This data can be queried via the American Fact Finder database located at *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t.*

and including Interstate Highway I–10, whichever is further north.

* * * * *

Janet Napolitano,

Secretary.

[FR Doc. 2012–19458 Filed 8–8–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22523; Directorate Identifier 2005–NM–058–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain The Boeing Company Model 767 airplanes. That NPRM proposed to require drilling a drain hole in the flanged tubes for certain elevator control cable aft pressure seals; doing repetitive inspections for dirt, loose particles, or blockage of the flanged tube and drain hole for the pressure seals, and corrective action if necessary; replacing the aft air-intake duct assembly with a new or modified assembly and installing a dripshield; and installing gutters on the horizontal stabilizer center section and modifying the side brace fittings. That NPRM was prompted by reports of stiff operation of the elevator pitch control system and jammed elevator controls. This action revises that NPRM by proposing to require replacement of pressure seal assemblies, rather than the proposed drilling of drain holes; revising a certain compliance time and inspection type; adding certain optional actions; and revising the applicability. We are proposing this supplemental NPRM to prevent moisture from collecting and freezing on the elevator control system components, which could limit the ability of the flightcrew to make elevator control inputs and result in reduced controllability of the airplane. Since these actions impose an additional burden over that proposed in the previous NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this supplemental NPRM by September 24, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, 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 proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6490; fax: (425) 917–6590; email: *Kelly.McGuckin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2005–22523; Directorate Identifier 2005–NM–058–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to certain The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes. That NPRM published in the **Federal Register** on September 27, 2005 (70 FR 56386). That NPRM proposed to require drilling a drain hole in the flanged tubes for the E1A and E1B elevator control cable aft pressure seals; doing repetitive inspections for dirt, loose particles, or blockage of the flanged tube and drain hole for the E1A and E1B elevator control cable aft pressure seals and corrective action if necessary; replacing the aft air-intake duct assembly with a new or modified aft air-intake duct assembly and installing a dripshield; and installing gutters on the horizontal stabilizer center section and modifying the side brace fittings.

Actions Since Previous NPRM (70 FR 56386, September 27, 2005) Was Issued

Since we issued the previous NPRM (70 FR 56386, September 27, 2005), we have received reports of elevator control restrictions from operators who had implemented the actions specified in the previous NPRM.

Since we issued the previous NPRM (70 FR 56386, September 27, 2005), we have also received revised and new service information.

We have reviewed Boeing Service Bulletin 767–27–0204, Revision 2, dated August 16, 2011 (for Model 767–200, –300, and –300F series airplanes); and Boeing Service Bulletin 767–27–0205, Revision 2, dated August 30, 2011 (for Model 767–400ER series airplanes). We referred to Boeing Service Bulletin 767–27–0204, dated January 27, 2005; and Boeing Service Bulletin 767–27–0205, dated January 27, 2005; as the appropriate sources of service information for accomplishing the

actions proposed in paragraph (g) of the previous NPRM (70 FR 56386, September 27, 2005). Revision 2 of this service information revises the type of inspection from a detailed inspection to a general visual inspection, and also revises the compliance times by basing one time on the accomplishment of Boeing Service Bulletin 767–27A0219.

Boeing Service Bulletin 767–27–0204, Revision 2, dated August 16, 2011, revises the effectivity to specify line numbers 225, 226, 228 through 717, and 719 through 971, except airborne warning and control system (AWACS) airplanes (previous effectivity was line numbers 225, 226 and 228 through 9999). Boeing Service Bulletin 767–27–0205, Revision 2, dated August 30, 2011, also revises the effectivity to specify line numbers 758 through 965 (Revision 2 of this service information removes airplanes—the earlier revisions specified ''all'' airplanes). We have revised paragraphs (c) and (g) of this supplemental NPRM to refer to this revised service information. We have also added new paragraph (m)(1) to give credit for actions done before the effective date of the AD using earlier versions of Boeing Service Bulletin 767–27–0204, Revision 2, dated August 16, 2011; and Boeing Service Bulletin 767–27–0205, Revision 2, dated August 30, 2011.

We have also reviewed Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011, which describes procedures for replacing the two existing pressure seal assemblies for the left elevator control cables at the aft pressure bulkhead. The replacement also includes closing existing drain holes for airplanes that have drain holes in the seal block tubes. Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011, specifies that, for certain airplanes, the replacement eliminates the need for the inspections specified in Boeing Service Bulletin 767–27–0204, Revision 2, dated August 16, 2011; and Boeing Service Bulletin 767–27–0205, Revision 2, dated August 30, 2011.

We have determined that the replacement specified in Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011, needs to be done to address the identified unsafe condition instead of the actions proposed in paragraph (f) of the previous NPRM (70 FR 56386, September 27, 2005). We have not retained paragraph (f) of the previous NPRM in this supplemental NPRM. The effectivity of Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011, includes line numbers 906 through 974, which were not in the service information referenced in paragraph (f) of the previous NPRM.

We have added new paragraph (h) to this supplemental NPRM to propose to require the replacement specified in Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011, for certain airplanes and, for certain other airplanes, we have added new paragraph (l) in this supplemental NPRM to provide the replacement as an optional action. We have also added new paragraph (m)(2) to this supplemental NPRM to give credit for actions done in accordance with Boeing Alert Service Bulletin 767–27A0224, dated June 23, 2011.

We have also reviewed Boeing Service Bulletin 767–49A0035, Revision 2, dated June 2, 2006. We referred to Boeing Alert Service Bulletin 767–49A0035, Revision 1, dated December 11, 2003, as the appropriate source of service information for accomplishing the actions proposed in paragraph (h) of the previous NPRM (70 FR 56386, September 27, 2005). Revision 2 of this service bulletin advises operators that it is unnecessary to remove the forward intake duct. Revision 2 of this service bulletin also adds notes and removes certain steps to clarify the procedure. We have revised paragraph (i) of this supplemental NPRM (which corresponds to paragraph (h) of the previous NPRM) to refer to Boeing Service Bulletin 767–49A0035, Revision 2, dated June 2, 2006. We have added new paragraph (m)(3) to this supplemental NPRM to give credit for doing the applicable actions in accordance with Boeing Alert Service Bulletin 767–49A0035, Revision 1, dated December 11, 2003.

We have also reviewed Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006. We referred to Boeing Alert Service Bulletin 767–51A0027, dated December 9, 2004; and Boeing Alert Service Bulletin 767–51A0028, dated December 9, 2004; as the appropriate sources of service information for accomplishing the actions proposed in paragraph (i) of the previous NPRM (70 FR 56386, September 27, 2005). Revision 1 of this service information adds a high frequency eddy current inspection for cracks as an option to a certain dye penetrant inspection, and adds a corrective action for those inspections, i.e., oversizing the hole. Revision 1 of this service information also adds an option to install the gutter as a one-piece assembly. We have revised paragraph (j) of this supplemental NPRM (which corresponds to paragraph (i) of the previous NPRM) to refer to Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and to Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006. We have added new paragraph (m)(4) to this supplemental NPRM to give credit for doing actions in accordance with Boeing Alert Service Bulletin 767–51A0027, dated December 9, 2004; and Boeing Alert Service Bulletin 767–51A0028, dated December 9, 2004.

Comments

We gave the public the opportunity to comment on the previous NPRM (70 FR 56386, September 27, 2005). The following presents the comments received on the previous NPRM and the FAA's response to each comment.

Request To Withdraw the Previous NPRM (70 FR 56386, September 27, 2005)

Airlines for America, on behalf of its member Delta Airlines (Delta), requested we withdraw the previous NPRM (70 FR 56386, September 27, 2005). Delta stated that ''the root causes of the three noted findings were not conclusively identified,'' and withdrawal would be justified by the lack of documented blade seal leakage in service. Delta noted that the Boeing 767 fleet has been in operation for over 20 years and has had relatively few instances of stiff controls in the area of the modifications proposed by the previous NPRM. Delta stated that the modifications involve a change in design of the aircraft to divert possible water intrusion, yet the water intrusion was not a concern until the second quarter of 2001. Delta indicated that ''it seems unlikely that a poor design that is not age-related would cause concern after so many years of time-tested, safe operations.'' Delta stated that a regulatory action to correct a design problem that has not been identified conclusively is unjustified.

We disagree with the commenter's request. The in-service events of Model 767 airplane elevator control restrictions were investigated by The Boeing Company subsequent to the events identified in the previous NPRM (70 FR 56386, September 27, 2005). One of these events included difficulty flaring the airplane and a subsequent hard landing. These conditions made it difficult for the flightcrew to control the pitch of the airplane because elevator control movements were restricted. The investigation included analysis of flight data recorder information and on-airplane testing. Determining the exact

location of suspected icing and conclusively identifying a root cause was very difficult on in-service airplanes as the ice formed at high altitudes, and then melted upon landing at an airport. In addition, Boeing identified the most probable locations of the control system freezing, and identified the probable locations of moisture ingress. Boeing released service information as a result of this investigation.

We concur with Boeing's conclusions and the recommendations contained in the service information. We have determined that an unsafe condition exists on the affected airplanes, and is likely to exist or develop on other airplanes of the same type design. Issuance of an AD is the appropriate vehicle to correct an unsafe condition. No change has been made to this supplemental NPRM in this regard.

Request to Extend Compliance Times

Airlines for America, on behalf of its member UPS, requested we extend the compliance time for the replacement specified in paragraph (h) of the previous NPRM (70 FR 56386, September 27, 2005) from 18 to 24 months. UPS stated that it has not accomplished the actions specified in the relevant service information because there have been no findings at UPS, nor have there been any problems related to auxiliary power unit (APU) air intake duct water leakage causing stiff operation of the pitch control system by freezing on the associated linear variable differential transducer (LVDT). UPS stated that continued normal maintenance and flight operations provide an equivalent level of safety.

Airlines for America, on behalf of its member Delta, requested that we extend the compliance time for the modification and installation specified in paragraph (i) of the previous NPRM (70 FR 56386, September 27, 2005) from 60 to 72 months. Delta stated that the proposed compliance time does not fall into a routine maintenance opportunity. Delta noted again that there have been no specific instances of blade seal leakage on an in-service aircraft, and stated that seal leakage has occurred only during a ''wet-down'' test. Delta also stated that Boeing has not indicated there is a freezing problem attributed to stiff controls from blade seal leakage and that the root cause cannot be identified conclusively. Delta stated this lack of conclusive evidence over 20 years of operational history should be adequate to establish a more amenable compliance time.

We disagree with both requests for extensions of the compliance times. Since issuance of the previous NPRM (70 FR 56386, September 27, 2005), we have received several additional reports of elevator system restrictions likely caused by ice accumulation. The compliance times of 18 months specified in paragraph (i) and 60 months specified in paragraph (j) of this supplemental NPRM (which correspond to paragraphs (h) and (i) of the previous NPRM (70 FR 56386, September 27, 2005)) are based on our review of the manufacturer's recommended compliance times, which are based on airplane-level risk assessment and input from the lead airline. We have determined that these compliance times are appropriate to ensure an acceptable level of safety for the affected fleet. We have not changed this supplemental NPRM in this regard.

Request to Exclude Certain Requirements for Freighter Airplanes

Airlines for America, on behalf of its member UPS, requested that we revise paragraphs (f) and (g) of the previous NPRM (70 FR 56386, September 27, 2005) to exclude airplanes that do not have associated aft galley installations. The commenter stated that aft galleys are not installed on the Model 767–300F (freighter) airplanes in its fleet.

We disagree. We considered excluding freighter airplanes from the specified paragraphs of this supplemental NPRM. Although a leaking aft galley has been determined to potentially cause moisture to collect and freeze on the elevator control cables in this area, other sources of moisture were considered. These other sources include leaking cargo containers, and rain, snow, and ice on cargo containers. In light of these other potential moisture sources, we determined that paragraphs (g) and (h) of this supplemental NPRM are also applicable to freighter airplanes; paragraph (h) of this supplemental NPRM contains the new actions we are proposing instead of the action proposed in paragraph (g) of the previous NPRM (70 FR 56386, September 27, 2005).

Request to Revise Alternative Methods of Compliance (AMOC) Section

Boeing requested we revise the AMOC paragraph (i.e., paragraph (k)) of the previous NPRM (70 FR 56386, September 27, 2005) to include a provision to allow repairs to be approved by a Boeing Company Authorized Representative (AR) who has been authorized by the FAA to make such findings.

We agree and have added new paragraph (n)(3) to this supplemental NPRM accordingly.

Request to Change Service Information Reference

Delta requested we revise paragraph (f) of the previous NPRM (70 FR 56386, September 27, 2005) to refer to Boeing Service Bulletin 767–27A0192, Revision 1, dated March 17, 2005.

We agree that paragraph (f) of the previous NPRM (70 FR 56386, September 27, 2005) included an incorrect reference. However, we have not restated that paragraph in this supplemental NPRM. We have not revised this supplemental NPRM in this regard.

Additional Changes

We have added a new paragraph (d) to this supplemental NPRM to provide the Air Transport Association (ATA) of America subject codes. These codes are added to make this supplemental NPRM parallel with other new AD actions.

We have revised the heading and wording for paragraph (m) of this supplemental NPRM; this change does not affect the intent of that paragraph.

FAA's Determination

We are proposing this supplemental NPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs. Certain changes described above expand the scope of the original NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Proposed Requirements of the Supplemental NPRM

This supplemental NPRM would require, depending on airplane configuration, repetitive general visual inspections for dirt, loose particles, and blockage of the flanged tube and drain hole for the E1A and E1B elevator control cable aft pressure seals, and corrective actions if necessary; replacement of the two existing pressure seal assemblies for the left elevator control cables at the aft pressure bulkhead; replacement of the aft air-intake duct assembly with a new or modified aft air-intake duct assembly and installation of a dripshield; and installation of gutters on the horizontal stabilizer center section and modification of the side brace fittings, including a dye penetrant or high frequency eddy current inspection for cracking and damage and corrective actions if necessary.

Differences Between the Proposed AD and the Service Information

Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006; specify to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

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

Step 8 in Figures 6 and 10 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006; specifies hydraulic hose, part number AS115–08D0274; this supplemental NPRM specifies the correct part number, AS115–08D0280.

For steps 4, 8, and 12 in Figures 6 and 10 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006: This supplemental NPRM allows hydraulic hose, part number AS115–08K0280, as an option to part number AS115–08D0280.

For steps 2, 6, and 10 in Figures 6 and 10 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006: This supplemental NPRM allows hydraulic hose, part number AS115–06K0274, as an option to part number AS115–06D0274.

Steps 3.B.16 and 3.B.17 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006; specify to do a check of the elevator power control actuator and a systems test of the autopilot system. Those actions would not be required by this supplemental NPRM because those systems are not disturbed during gutter installation.

Where Note (d) of Figure 8 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006; specifies to ''install collars on the upper surface of the gutter,'' this supplemental NPRM would require that operators install these bolts with the bolt heads either up or down provided that the bolt head direction prevents interference between the collars and the hydraulic lines.

Step 1 of Figure 4 of Boeing Service Bulletin 767–49A0035, Revision 2, dated June 2, 2006, specifies to install the forward air-intake duct. This action is not included in this supplemental NPRM because it is not necessary for operators to remove the forward air-intake duct.

Costs of Compliance

We estimate that this proposed AD affects about 400 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the flanged tube and drain hole (300 airplanes).	2 work-hours × $85 per hour = $170 per inspection cycle.	$0	$170 per inspection cycle.	$51,000 per inspection cycle.
Pressure seal replacement (300 airplanes).	7 work-hours × $85 per hour = $595	261	856	256,800
Aft air-intake duct assembly replacement and dripshield installation (358 airplanes).	3 work-hours × $85 per hour = $255	1,462	1,717	614,686
Horizontal stabilizer gutter installation and modification of the side brace fittings (354 airplanes).	12 work-hours × $85 per hour = $1,020	1,902	2,922	1,034,388

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Cleaning	1 work-hour × $85 per hour = $85	$0	$85

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2005–22523; Directorate Identifier 2005–NM–058–AD.

(a) Comments Due Date

We must receive comments by September 24, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category; as identified in the service information specified in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), and (c)(6) of this AD.

(1) Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011.

(2) Boeing Service Bulletin 767–49A0035, Revision 2, dated June 2, 2006.

(3) Boeing Service Bulletin 767–27–0204, Revision 2, dated August 16, 2011.

(4) Boeing Service Bulletin 767–27–0205, Revision 2, dated August 30, 2011.

(5) Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006.

(6) Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 27, Flight controls; 49, Airborne auxiliary power; 51, Standard practices/structures.

(e) Unsafe Condition

This AD was prompted by reports of stiff operation of the elevator pitch control system and jammed elevator controls. We are issuing this AD to prevent moisture from collecting and freezing on the elevator control system components, which could limit the ability of the flightcrew to make elevator control inputs and result in reduced controllability of the airplane.

(f) Compliance

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

(g) Inspections and Corrective Actions

For airplanes identified in Boeing Service Bulletin 767–27–0204, Revision 2, dated August 16, 2011; and Boeing Service Bulletin 767–27–0205, Revision 2, dated August 30, 2011: At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, do a general visual inspection for dirt, loose particles, and blockage of the flanged tube and drain hole for the E1A and E1B elevator control cable aft pressure seals, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–27–0204, Revision 2, dated August 16, 2011 (for Model 767–200, –300, and –300F series airplanes); or Boeing Service Bulletin 767–27–0205, Revision 2, dated August 30, 2011 (for Model 767–400ER series airplanes). Do all applicable corrective actions before further flight. Repeat the inspection thereafter at intervals not to exceed 24 months.

(1) For airplanes on which Boeing Service Bulletin 767–27A0219 has been done as of the effective date of this AD: Do the inspection at the time specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD, whichever occurs later.

(i) Within 24 months after doing the actions specified in Boeing Service Bulletin 767–27A0219.

(ii) Within 6 months after the effective date of this AD.

(2) For airplanes on which Boeing Service Bulletin 767–27A0219 has not been done as of the effective date of this AD: Do the inspection at the time specified in paragraph (g)(2)(i) or (g)(2)(ii) of this AD, whichever occurs later.

(i) Within 24 months after the effective date of this AD.

(ii) Within 24 months since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(h) Replacement—Pressure Seal Assemblies

For Group 1, Configuration 1–2 airplanes; Group 2, Configuration 1 airplanes; and Group 4, Configuration 1–2 airplanes; as identified in Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011: Within 24 months after the effective date of this AD, replace the two existing pressure seal assemblies for the left elevator control cables at the aft pressure bulkhead, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011. Accomplishing this replacement terminates the inspections required by paragraph (g) of this AD.

(i) Replacement—Air-Intake Duct Assembly and Installation—Dripshield

For airplanes identified in Boeing Service Bulletin 767–49A0035, Revision 2, dated June 2, 2006: Within 18 months after the effective date of this AD, replace the aft air-intake duct assembly with a new or modified aft air-intake duct assembly and install a dripshield, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–49A0035, Revision 2, dated June 2, 2006, except as provided by paragraph (k)(1) of this AD.

(j) Gutter Installation and Side Brace Modification

For airplanes identified in Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006: Within 60 months after the effective date of this AD, install gutters on the horizontal stabilizer center section, and modify the side brace fittings, including doing a dye penetrant or high frequency eddy current inspection for cracking and damage of the drain hole and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006 (for Model 767–200, –300, and –300F series airplanes); or Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006 (for Model 767–400ER series airplanes); except as provided by paragraphs (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7) of this AD.

(k) Exceptions to Service Information

(1) Where Step 1 of Figure 4 of Boeing Service Bulletin 767–49A0035, Revision 2, dated June 2, 2006, specifies installing the forward air-intake duct, that installation is not required by this AD.

(2) Where Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006; specify to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(3) Where step 8 in Figures 6 and 10 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006; specify hydraulic hose, part number AS115–08D0274, the correct part number is AS115–08D0280.

(4) For steps 4, 8, and 12 in Figures 6 and 10 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006: Hydraulic hose, part number AS115–08K0280, is an option to part number AS115–08D0280.

(5) For steps 2, 6, and 10 in Figures 6 and 10 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028,

Revision 1, dated October 12, 2006: Hydraulic hose, part number AS115–06K0274, is an option to part number AS115–06D0274.

(6) Steps 3.B.16 and 3.B.17 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006; are not required by this AD.

(7) Where Note (d) of Figure 8 of Boeing Service Bulletin 767–51A0027, Revision 1, dated October 12, 2006; and Boeing Service Bulletin 767–51A0028, Revision 1, dated October 12, 2006; specifies to ''install collars on the upper surface of the gutter,'' this AD requires that operators install these bolts with the bolt heads either up or down provided that the bolt head direction prevents interference between the collars and the hydraulic lines.

(l) Optional Replacement—Pressure Seal Assemblies

For Group 1, Configuration 3–4 airplanes; Group 2, Configuration 2–3 airplanes; Group 3 airplanes; and Group 4, Configuration 3–4 airplanes; as identified in Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011: Replacing the two existing pressure seal assemblies for the left elevator control cables at the aft pressure bulkhead, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–27A0224, Revision 1, dated December 16, 2011, terminates the inspections required by paragraph (g) of this AD.

(m) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if the actions were performed before the effective date of this AD using the applicable service information in paragraph (m)(1)(i) or (m)(1)(ii) of this AD.

(i) For Model 767–200, –300, and –300F series airplanes: Boeing Service Bulletin 767–27–0204, dated January 27, 2005; or Boeing Service Bulletin 767–27–0204, Revision 1, dated February 12, 2009.

(ii) For Model 767–400ER series airplanes: Boeing Service Bulletin 767–27–0205, dated January 27, 2005; or Boeing Service Bulletin 767–27–0205, Revision 1, dated February 12, 2009.

(2) This paragraph provides credit for the actions required by paragraphs (h) and (l) of this AD, if the actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 767–27A0224, dated June 23, 2011.

(3) This paragraph provides credit for the actions required by paragraph (i) of this AD, if the actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 767–49A0035, Revision 1, dated December 11, 2003.

(4) This paragraph provides credit for the actions required by paragraph (j) of this AD, if the actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 767–51A0027, dated December 9, 2004; or Boeing Alert Service Bulletin 767–51A0028, dated December 9, 2004.

(n) 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.

(o) Related Information

(1) For more information about this AD, contact Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6490; fax: (425) 917–6590; email: *Kelly.McGuckin@faa.gov.*

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

Issued in Renton, Washington, on July 31, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–19532 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0829; Directorate Identifier 2012–CE–024–AD]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation Model G58 airplanes. This proposed AD was prompted by notification from Hawker Beechcraft Corporation that certain affected aircraft were produced with the incorrect gauge wiring installed. This proposed AD would require replacement of the incorrect gauge wiring with the correct wiring required by type design and the aircraft's circuit protection. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by September 24, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Hawker Beechcraft Corporation, B091–A04, 10511 E. Central Ave., Wichita, Kansas 67206; telephone: 1 (800) 429–5372 or (316) 676–3140; fax: (316) 676–8027; email: *tmdc@hawkerbeechcraft.com;* or Internet: *http://www.hawkerbeechcraft.com/customer_support/technical_and_field_support/.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the

availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Richard Rejniak, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0829; Directorate Identifier 2012–CE–024–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received notification from Hawker Beechcraft Corporation that their wiring fabricators created wiring bundles with the incorrect gauge wiring for the three-light strobe system of certain Model G58 airplanes. The wire used is a smaller gauge wire than required by type design and the aircraft's circuit protection is not adequate to protect the incorrect gauge wire. This condition, if not corrected, could result in smoke in the cockpit and the possible failure of the aircraft's strobe light system. The failure of the wiring for the aircraft's strobe light system could also cause potential damage to surrounding wires.

Relevant Service Information

We reviewed Hawker Beechcraft Mandatory Service Bulletin No. SB 33–4053, dated February 2011. The service bulletin describes procedures for replacing the existing 20-gauge wire with a new wire of 18-gauge size, part number (P/N) M27500–18TE1T14, or equivalent.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 40 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace supply wire of the three light strobe system.	16 work-hours × $85 per hour = $1,360	$50	$1,410	$56,400

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Hawker Beechcraft Corporation Airplanes: Docket No. FAA–2012–0829; Directorate Identifier 2012–CE–024–AD.

(a) Comments Due Date

We must receive comments by September 24, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Hawker Beechcraft Corporation Model G58 airplanes, serial numbers (S/N) TH–2218 through TH–2285, that are certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Unsafe Condition

This AD was prompted by notification from Hawker Beechcraft Corporation that certain aircraft were produced with the incorrect gauge wiring installed. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

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

(g) Replace Supply Wire of the Three Light Strobe System

Within the next 50 hours time-in-service (TIS) after the effective date of this AD or within the next 6 calendar months after the effective date of this AD, whichever occurs first, replace the supply wire of the three-light strobe system. Do the replacement following Hawker Beechcraft Mandatory Service Bulletin No. SB 33–4053, dated February 2011.

(h) Special Flight Permit

Special flight permits are permitted with the following limitation: visual flight rules (VFR) day conditions.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Richard Rejniak, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@faa.gov.*

(2) For service information identified in this AD, contact Hawker Beechcraft Corporation, B091–A04, 10511 E. Central Ave., Wichita, Kansas 67206; telephone: 1 (800) 429–5372 or (316) 676–3140; fax: (316) 676–8027; email: *tmdc@hawkerbeechcraft.com;* or Internet: *http://www.hawkerbeechcraft.com/customer_support/technical_and_field_support/.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on August 3, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–19541 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0830; Directorate Identifier 2012–CE–026–AD]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation Model C90GTi (King Air) airplanes. This proposed AD was prompted by reports of incorrect gauge wires used in certain wiring bundles for the cockpit electrical power for backlighting and instrument panel components. This proposed AD would require replacing incorrect gauge wires in certain electrical power wiring bundles, inspecting associated wiring bundles and components for heat damage, and taking all necessary corrective actions. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by September 24, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Hawker Beechcraft Corporation, 10511 E. Central Ave., Wichita, Kansas 67206; phone: (316) 676–3100 or (888) 727–4344; fax: (316) 676–3222 or (316) 676–3327; email: *HBC_Parts@hawkerbeechcraft.com;* Internet: *www.hawkerbeechcraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Richard Rejniak, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0830; Directorate Identifier 2012–CE–026–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory,

economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received a report that a Hawker Beechcraft Corporation Model C90GTi (King Air) airplane experienced an in-flight lighting failure of the pilot panel, audio panel, flight guidance control panel, and display control panel lighting.

Investigation revealed that incorrect gauge wires were used by the wiring fabricators in the wiring bundles for the pilot backlighting and instrument panel components. The specific pilot backlighting systems directly affected by the incorrect gauge wiring bundles are the backlighting for the pilot panel (reversionary switching, radio tuning unit, multifunction display (MFD), pilot yoke lights, pilot's primary flight display (PFD)), audio panel, flight guidance control panel, and display control panel. The instrument panel components affected include the MFD and the co-pilot's PFD.

This condition, if not corrected, could result in smoke in the cockpit and possibly cause wiring failure for the power to the airplane's cockpit lighting, the MFD, the co-pilot's PFD, and their respective systems. Failure of the wiring for the power to the airplane's cockpit backlighting, the MFD, and the co-pilot's PFD systems could also result in potential damage to surrounding wires and components.

Relevant Service Information

We reviewed Hawker Beechcraft Mandatory Service Bulletin No. SB 24–4050, dated November 2010. The service bulletin describes procedures for replacing incorrect gauge wires in the electrical power wiring bundles, inspecting the associated wire bundles and components for heat damage, and taking any necessary corrective actions.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described.

Costs of Compliance

We estimate that this proposed AD affects 85 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace incorrect gauge wires and damaged components.	15 work-hours × $85 per hour = $1,275	$50	$1,325	$112,625

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Hawker Beechcraft Corporation: Docket No. FAA–2012–0830; Directorate Identifier 2012–CE–026–AD.

(a) Comments Due Date

We must receive comments by September 24, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Hawker Beechcraft Corporation Model C90GTi (King Air) airplanes, serial numbers LJ–1847, and LJ–1853 through LJ–1997, that are certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 24; Electric power.

(e) Unsafe Condition

This AD was prompted by reports of incorrect gauge wires used in the wiring bundles for the cockpit electrical power for backlighting and instrument panel components. We are issuing this AD to prevent failure of the wiring for the power to the airplane's cockpit backlighting and instrument panel components. Failure of the wiring for the airplane's cockpit backlighting and instrument panel components could cause smoke in the cockpit, loss of power to the multifunction display, the co-pilot's primary flight display, cockpit lighting, and potential damage to surrounding wires and components.

(f) Compliance

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

(g) Replace Cockpit Electrical Power Wires

Within the next 50 hours time-in-service after the effective date of this AD or within the next 6 calendar months after the effective date of this AD, whichever occurs first, do the replacements specified below following the Accomplishment Instructions in Hawker Beechcraft Mandatory Service Bulletin No. SB 24–4050, dated November 2010:

(1) Replace wire part number (P/N) CB41–J11–1 on the A124 fuel control panel assembly with a new wire P/N M22759/16–14–9.

(2) Replace wire P/N J26–4–CB308 on the co-pilot primary flight display (PFD), and wire P/N J27–5–CB272 on the multifunction display (MFD), with a new wire P/N M22759/16–16–9.

(h) Inspect Associated Wire Bundles and Components

While doing the replacements required in paragraphs (g)(1) and (g)(2) of this AD at the compliance time specified in paragraph (g) of this AD, visually inspect the associated wire bundles and components for heat damage. Do the inspections following the Accomplishment Instructions in Hawker Beechcraft Mandatory Service Bulletin No. SB 24–4050, dated November 2010.

(i) Repair or Replace Damaged Wires and/or Components

Before further flight after the inspection required in paragraph (h) of this AD, repair or replace any heat damaged wires or components following the Accomplishment Instructions in Hawker Beechcraft Mandatory Service Bulletin No. SB 24–4050, dated November 2010.

(j) Special Flight Permit

Special flight permits are permitted with the following limitation: Visual flight rules (VFR) day conditions only.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

(1) For more information about this AD, contact Richard Rejniak, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4128; fax: (316) 946–4107; email: *richard.rejniak@faa.gov.*

(2) For service information identified in this AD, contact Hawker Beechcraft Corporation, 10511 E. Central Ave., Wichita, Kansas 67206; phone: (316) 676–3100 or (888) 727–4344; fax: (316) 676–3222 or (316) 676–3327; email: *HBC_Parts@hawkerbeechcraft.com;* Internet: *www.hawkerbeechcraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on August 3, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–19495 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–13–P

INTERNATIONAL TRADE COMMISSION

19 CFR Chapter II

Retrospective Analysis of Existing Rules

AGENCY: International Trade Commission.

ACTION: Notice of proposed rule.

SUMMARY: The United States International Trade Commission (Commission) seeks comments from the public as to Commission rules that might be suitable for modification or elimination.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Office of the General Counsel, United States International Trade Commission, telephone 202–205–3102. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

DATES: *Comment Date:* To be assured of consideration, written comments must be received by 5:15 p.m. October 9, 2012.

SUPPLEMENTARY INFORMATION: In response to Executive Order 13579 of July 11, 2011, the Commission recently adopted its Plan for Retrospective Analysis of Existing Rules. 77 FR 8114 (Feb. 14, 2012). This Plan provides that the Commission will, every two years, review its significant regulations to determine whether any should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving regulatory objectives. The Commission is now conducting such a periodic review, and invites comments from the public as to Commission rules that might be suitable for modification or elimination. Comments that were submitted in connection with the Commission's Preliminary Plan for Retrospective Analysis of Existing Rules (76 FR 66004 (Oct. 25, 2011)) will be considered in this review and need not be resubmitted.

Examples of Rules for Retrospective Review

The Commission has preliminarily identified the following aspects of its existing rules for review over the next two years:

1. General review of existing regulations in 19 CFR parts 201, 207, and 210. The Commission will seek to determine whether any such regulations shall be modified, streamlined, expanded or repealed so as to make the agency's regulations more effective or less burdensome.

2. Employee Responsibilities and Conduct, 19 CFR part 200. The Commission intends to review its regulations addressing employee responsibilities and conduct, to assess whether these regulations can be modified or repealed, in light of the issuance of similar regulations by the Office of Government Ethics.

3. National Security Information, 19 CFR part 201, Subpart F. The Commission intends to review its regulations addressing national security information, to assess whether these regulations should be modified, in light of Executive Order 13526 (Dec. 29, 2009).

4. Investigations With Respect to Commercial Availability of Textile Fabric and Yarn in Sub-Saharan African Countries, 19 CFR part 208. The Commission intends to review its regulations addressing investigations with respect to the commercial availability of textile fabric and yarn in Sub-Saharan African countries, to assess

whether these regulations can be repealed, in light of the repeal of section 112(c)(2) of the African Growth and Opportunity Act (AGOA), which required the Commission to make determinations with respect to the commercial availability and use of regional textile fabric or yarn in lesser developed beneficiary sub-Saharan African countries in the production of apparel articles receiving U.S. preferential treatment under AGOA (see section 3(a)(2)(B) of Pub. L. 110–436, October 16, 2008, 122 Stat. 4980).

This list is non-exhaustive and the Commission will consider whether other parts of its regulations should also be subject to review within the next two years.

Public Participation

Instructions: Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary (U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436) by noon the next day pursuant to section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Submissions should refer to the investigation number (MISC–038) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000). All comments received will be posted without change to *http://www.edis.usitc.gov,* including any personal information provided.

Docket: For access to the docket to read comments received, go to *http://www.edis.usitc.gov* or U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

By Order of the Commission.
Issued: August 2, 2012.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2012–19296 Filed 8–8–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40 and 46

[REG–136008–11]

RIN 1545–BK59

Fees on Health Insurance Policies and Self-Insured Plans for the Patient-Centered Outcomes Research Trust Fund; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations under sections 4375 through 4377 of the Internal Revenue Code. The proposed regulations provide guidance on the fees imposed by the Patient Protection and Affordable Care Act on issuers of certain health insurance policies and plan sponsors of certain self-insured health plans to fund the Patient-Centered Outcomes Research Trust Fund.

DATES: The public hearing, originally scheduled for August 8, 2012 at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Oluwafunmilayo Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and a notice of public hearing that appeared in the **Federal Register** on Tuesday, April 17, 2012 (77 FR 22691) announced that a public hearing was scheduled for August 8, 2012, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The subject of the public hearing was under the sections 4375 through 4377 of the Internal Revenue Code.

The public comment period for these regulations expired on July 16, 2012. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. The public hearing scheduled for August 8, 2012, is cancelled.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration.

[FR Doc. 2012–19585 Filed 8–6–12; 4:15 pm]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0402; FRL–9714–8]

Approval and Promulgation of Implementation Plans; Mississippi; 110(a)(2)(E)(ii) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve in part, and disapprove in part, a draft revision to the Mississippi State Implementation Plan (SIP), submitted by the Mississippi Department of Environmental Quality (MDEQ), on July 13, 2012, for parallel processing. This proposal pertains to certain Clean Air Act (CAA) section 128 and section 110(a)(2)(E)(ii) requirements for the 1997 annual and 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) infrastructure SIP. 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. The requirements of section 128 of the CAA are incorporated into the State's infrastructure SIP pursuant to section 110(a)(2)(E)(ii). EPA is proposing to approve the section 110(a)(2)(E)(ii) submission as it relates to the public interest requirements of section 128(a)(1) and the conflict of interest disclosure provisions of section 128(a)(2). EPA is proposing to disapprove Mississippi's section 110(a)(2)(E)(ii) submission as it pertains to compliance with the significant portion of income requirements of section 128(a)(1). The subject of this notice is limited to the July 13, 2012, infrastructure section 110(a)(2)(E)(ii) and substantive section 128 SIP revisions submitted by Mississippi. All other applicable Mississippi infrastructure elements are being addressed in a separate rulemaking.

DATES: Written comments must be received on or before September 10, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0402, 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–2012–0402,'' 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–2012–0402. 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.*

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I. What is parallel processing?

Consistent with EPA regulations found at 40 CFR Part 51, appendix V, section 2.3.1, for purposes of expediting review of a SIP submittal, parallel processing allows a state to submit a plan to EPA prior to actual adoption by the state. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action and prepares a notice of proposed rulemaking. EPA's notice of proposed rulemaking is published in the **Federal Register** during the same time frame that the state is holding its public process. The state and EPA then provide for concurrent public comment periods on both the state action and federal action.

If the revision that is finally adopted and submitted by the state is changed in aspects other than those identified in the proposed rulemaking on the parallel process submission, EPA will evaluate those changes and if necessary and appropriate, issue another notice of proposed rulemaking. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the state and submitted formally to EPA for incorporation into the SIP.

On July 13, 2012, the State of Mississippi, through MDEQ, submitted a request for parallel processing of a draft SIP revision that the State is taking through public comment. MDEQ requested parallel processing so that EPA could begin to take action on its draft SIP revision in advance of the State's submission of the final SIP revision.

II. Background

On July 18, 1997 (62 FR 38652), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m^3) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. At that time, EPA also established a 24-hour NAAQS of 65 μg/m^3. *See* 40 CFR 50.7. On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 μg/m^3 based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a new 24-hour NAAQS of 35 μg/m^3 based on a 3-year average of the 98th percentile of 24-hour concentrations. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs to EPA no later than July 2000 for the 1997 annual $PM_{2.5}$ NAAQS and no later than October 2009 for the 2006 24-hour $PM_{2.5}$ 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 annual $PM_{2.5}$ NAAQS. On March 10, 2005, EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a **Federal Register** notice announcing EPA's determinations pursuant to section 110(k)(1)(B) 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. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state for the 1997 $PM_{2.5}$ NAAQS as of October 3, 2008.

On October 22, 2008, EPA published a final rulemaking entitled ''Completeness Findings for Section 110(a) State Implementation Plans Pertaining to the Fine Particulate Matter ($PM_{2.5}$) NAAQS'' making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997 $PM_{2.5}$ NAAQS. *See* 73 FR 62902. For those states that did receive findings, the findings of failure to submit for all or a portion of a state's implementation plan established a 24-month deadline for EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding SIP elements unless, prior to that time, the affected states submitted, and EPA approved, the required SIPs.

The findings that all or portions of a state's submission are complete established a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). Mississippi's infrastructure submissions were received by EPA on December 7, 2007, for the 1997 annual $PM_{2.5}$ NAAQS and on October 6, 2009, for the 2006 24-hour $PM_{2.5}$ NAAQS. The submissions were determined to be complete on June 7, 2008, and April 6, 2010, respectively. Mississippi was among other states that did not receive findings of failure to submit because it had provided a complete submission to EPA to address the infrastructure elements for the 1997 $PM_{2.5}$ NAAQS by October 3, 2008.

On July 6, 2011, WildEarth Guardians and Sierra Club filed an amended complaint related to EPA's failure to take action on the SIP submittal related to 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 complete a **Federal Register** notice of the Agency's final action either approving, disapproving, or approving in part and disapproving in part the Mississippi 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure SIP submittal 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 section 110(a)(2)(D)(i) interstate transport requirements, by September 30, 2012.

Today's action is proposing to approve in part and disapprove in part Mississippi's July 13, 2012, infrastructure submission for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS addressing CAA section 110(a)(2)(E)(ii) requirements. EPA is taking action on Mississippi's infrastructure submissions for the 1997 and 2006 $PM_{2.5}$ NAAQS for sections 110(a)(2)(A)–(D), E(i) and E(iii), (F)–(H), (J)–(M), except for section 110(a)(2)(C) the nonattainment area requirements and section 110(a)(2)(D)(i) interstate transport requirements in a separate actions.

As part of today's proposed approval actions, EPA is proposing to approve the substantive SIP revisions related to section 128 of the CAA submitted for parallel processing by Mississippi on July 13, 2012.

III. What elements are required under Sections 110(a)(1) and (2)?

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 and 2006 $PM_{2.5}$ NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous PM 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 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. The requirements that are the subject of the infrastructure rulemaking process 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,'' and EPA's September 25, 2009, memorandum 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) .''

- 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.

[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 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 proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[2] This element is only addressed in the $PM_{2.5}$ context as it relates to attainment areas.

[3] Today's proposed rule does not address element 110(a)(2)(D)(i) (Interstate Transport) for the 1997 and 2006 $PM_{2.5}$ NAAQS. Interstate transport requirements were formerly addressed by Mississippi consistent with the Clean Air Interstate Rule (CAIR). On December 23, 2008, CAIR was remanded by the DC Circuit Court of Appeals, without vacatur, back to EPA. *See North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). Prior to this remand, EPA took final action to approve Mississippi SIP revision, which was submitted to comply with CAIR. *See* 72 FR 56268 (October 3, 2007). In so doing, Mississippi CAIR SIP revision addressed the interstate transport provisions in section 110(a)(2)(D)(i) for the 1997 and 2006 $PM_{2.5}$ NAAQS. In response to the remand of CAIR, EPA has recently finalized a new rule to address the interstate transport of nitrogen oxides and sulfur oxides in the eastern United States. *See* 76 FR 48208 (August 8, 2011) (Transport Rule). That rule was recently stayed by the DC Circuit Court of Appeals. EPA's action on element 110(a)(2)(D)(i) will be addressed in a separate action.

- 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.

In today's action, EPA is only addressing section 110(a)(2) requirements related to element 110(a)(2)(E)(ii) for both the 1997 and 2006 $PM_{2.5}$ NAAQS. EPA is addressing the other 1997 and 2006 $PM_{2.5}$ NAAQS infrastructure requirements in a separate rulemaking.

IV. Scope of Infrastructure SIPs

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. Commenters on EPA's recent proposals for some states raised concerns about EPA statements that it was not addressing certain substantive issues in the context of acting on those infrastructure SIP submissions.[5] Those Commenters specifically raised concerns involving provisions in existing SIPs and with EPA's statements in other proposals that it would address two issues separately and not as part of actions on the infrastructure SIP submissions: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction (SSM) at sources, that may be contrary to the CAA and EPA's policies addressing such excess emission; and (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (director's discretion). EPA notes that there are two other substantive issues for which EPA likewise stated in other proposals that it would address separately: (i) Existing provisions for minor source New Source Review (NSR) programs that may be inconsistent with the requirements of the CAA and EPA's regulations that pertain to such programs (minor source NSR); and (ii) existing provisions for Prevention of Significant Deterioration (PSD) programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (NSR Reform). In light of the comments, EPA believes that its statements in various proposed actions on infrastructure SIPs with respect to these four individual issues should be explained in greater depth. It is important to emphasize that EPA is taking the same position with respect to these four substantive issues in this action on the infrastructure SIPs for the 1997 and 2006 $PM_{2.5}$ NAAQS from Mississippi.

EPA intended the statements in the other proposals concerning these four issues merely to be informational and to provide general notice of the potential existence of provisions within the existing SIPs of some states that might require future corrective action. EPA did not want states, regulated entities, or members of the public to be under the misconception that the Agency's approval of the infrastructure SIP submission of a given state should be interpreted as a re-approval of certain types of provisions that might exist buried in the larger existing SIP for such state. Thus, for example, EPA explicitly noted that the Agency believes that some states may have existing SIP approved SSM provisions that are contrary to the CAA and EPA policy, but that ''in this rulemaking, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during SSM of operations at facilities.'' EPA further explained, for informational purposes, that ''EPA plans to address such State regulations in the future.'' EPA made similar statements, for similar reasons, with respect to the director's discretion, minor source NSR, and NSR Reform issues. EPA's objective was to make clear that approval of an infrastructure SIP for these ozone and $PM_{2.5}$ NAAQS should not be construed as explicit or implicit re-approval of any existing provisions that relate to these four substantive issues. EPA is reiterating that position in this action on the infrastructure SIP for Mississippi.

Unfortunately, the Commenters and others evidently interpreted these statements to mean that EPA considered action upon the SSM provisions and the other three substantive issues to be integral parts of acting on an infrastructure SIP submission, and therefore that EPA was merely postponing taking final action on the issues in the context of the infrastructure SIPs. This was not EPA's intention. To the contrary, EPA only meant to convey its awareness of the potential for certain types of deficiencies in existing SIPs and to prevent any misunderstanding that it was reapproving any such existing provisions. EPA's intention was to convey its position that the statute does not require that infrastructure SIPs address these specific substantive issues in existing SIPs and that these issues may be dealt with separately, outside the context of acting on the infrastructure SIP submission of a state. To be clear, EPA did not mean to imply that it was not taking a full final agency action on the infrastructure SIP submission with respect to any substantive issue that EPA considers to be a required part of acting on such submissions under section 110(k) or under section 110(c). Given the confusion evidently resulting from EPA's statements in those other proposals, however, we want to explain more fully the Agency's reasons for concluding that these four potential substantive issues in existing SIPs may be addressed separately from actions on infrastructure SIP submissions.

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

[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.

[5] *See* Comments of Midwest Environmental Defense Center, dated May 31, 2011. Docket No. EPA–R05–OAR–2007–1179 (adverse comments on proposals for three states in Region 5). EPA notes that these public comments on another proposal are not relevant to this rulemaking and do not have to be directly addressed in this rulemaking. EPA will respond to these comments in the appropriate rulemaking action to which they apply.

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.

Although section 110(a)(1) addresses the timing and general requirements for these infrastructure SIPs, and section 110(a)(2) provides more details concerning the required contents of these infrastructure SIPs, EPA believes that many of the specific statutory provisions are facially ambiguous. In particular, the list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive provisions, and some of which pertain to requirements for both authority and substantive provisions.[6] Some of the elements of section 110(a)(2) are relatively straightforward, but others clearly require interpretation by EPA through rulemaking, or recommendations through guidance, in order to give specific meaning for a particular NAAQS.[7]

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).[8] 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.[9] 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. Finally, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS and the attendant infrastructure SIP submission for that NAAQS. For example, the monitoring requirements that might be necessary for purposes of section 110(a)(2)(B) for one NAAQS could be very different than what might be necessary for a different pollutant. Thus, the content of an infrastructure SIP submission to meet this element from a state might be very different for an entirely new NAAQS, versus a minor revision to an existing NAAQS.[10]

Similarly, EPA notes that other types of SIP submissions required under the statute also must meet the requirements of section 110(a)(2), and this also demonstrates the need to identify the applicable elements for other SIP submissions. For example, nonattainment SIPs required by part D likewise have to meet the relevant subsections of section 110(a)(2) such as section 110(a)(2)(A) or (E). By contrast, it is clear that nonattainment SIPs would not need to meet the portion of section 110(a)(2)(C) that pertains to part C, *i.e.,* the PSD requirements applicable in attainment areas. Nonattainment SIPs required by part D also would not need to address the requirements of section 110(a)(2)(G) with respect to emergency episodes, as such requirements would not be limited to nonattainment areas. As this example illustrates, each type of SIP submission may implicate some subsections of section 110(a)(2) and not others.

Given the potential for ambiguity of the statutory language of section 110(a)(1) and (2), EPA believes that it is appropriate for EPA to interpret that language in the context of acting on the infrastructure SIPs for a given NAAQS. Because of the inherent ambiguity of the list of requirements in section 110(a)(2), EPA has adopted an approach in which it reviews infrastructure SIPs against this list of elements ''as applicable.'' In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the purpose of the submission or the NAAQS in question, would meet each of the requirements, or meet each of them in the same way. EPA elected to use guidance to make recommendations for infrastructure SIPs for these ozone and $PM_{2.5}$ NAAQS.

On October 2, 2007, EPA issued guidance making recommendations for the infrastructure SIP submissions for both the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS.[11] Within this guidance document, EPA described the duty of states to make these submissions to meet what the Agency characterized as the ''infrastructure'' elements for SIPs, which it further described as the ''basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the standards.''[12] As further identification of these basic structural SIP requirements, ''attachment A'' to the guidance document included a short description of the various elements of section 110(a)(2) and additional information about the types of issues that EPA considered germane in the context of such infrastructure SIPs. EPA emphasized that the description of the basic requirements listed on attachment A was not intended ''to constitute an interpretation of'' the requirements, and was merely a ''brief description of the required elements.''[13] EPA also stated its belief that with one exception, these requirements were ''relatively self explanatory, and past experience with

[6] For example, section 110(a)(2)(E) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a substantive program to address certain sources as required by part C of the CAA; section 110(a)(2)(G) provides that states must have both legal authority to address emergencies and substantive contingency plans in the event of such an emergency.

[7] For example, section 110(a)(2)(D)(i) requires EPA to be sure that each state's SIP contains adequate provisions to prevent significant contribution to nonattainment of the NAAQS in other states. This provision contains numerous terms that require substantial rulemaking by EPA in order to determine such basic points as what constitutes significant contribution. *See* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NOx SIP Call; Final Rule,'' 70 FR 25162 (May 12, 2005) (defining, among other things, the phrase ''contribute significantly to nonattainment'').

[8] *See Id.,* 70 FR 25162, at 63–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[9] 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.

[10] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[11] *See* ''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,'' from William T. Harnett, Director, Air Quality Policy Division, to Air Division Directors, Regions I—X, dated October 2, 2007 (the ''2007 Guidance'').

[12] *Id.,* at page 2.

[13] *Id.,* at attachment A, page 1.

SIPs for other NAAQS should enable States to meet these requirements with assistance from EPA Regions.'' [14] However, for the one exception to that general assumption (*i.e.,* how states should proceed with respect to the requirements of section 110(a)(2)(G) for the 1997 $PM_{2.5}$ NAAQS), EPA gave much more specific recommendations. But for other infrastructure SIP submittals, and for certain elements of the submittals for the 1997 $PM_{2.5}$ NAAQS, EPA assumed that each State would work with its corresponding EPA regional office to refine the scope of a State's submittal based on an assessment of how the requirements of section 110(a)(2) should reasonably apply to the basic structure of the State's implementation plans for the NAAQS in question.

On September 25, 2009, EPA issued guidance to make recommendations to states with respect to the infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS.[15] In the 2009 Guidance, EPA addressed a number of additional issues that were not germane to the infrastructure SIPs for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS, but were germane to these SIP submissions for the 2006 $PM_{2.5}$ NAAQS (e.g., the requirements of section 110(a)(2)(D)(i) that EPA had bifurcated from the other infrastructure elements for those specific 1997 ozone and $PM_{2.5}$ NAAQS). Significantly, neither the 2007 Guidance nor the 2009 Guidance explicitly referred to the SSM, director's discretion, minor source NSR, or NSR Reform issues as among specific substantive issues EPA expected states to address in the context of the infrastructure SIPs, nor did EPA give any more specific recommendations with respect to how states might address such issues even if they elected to do so. The SSM and director's discretion issues implicate section 110(a)(2)(A), and the minor source NSR and NSR Reform issues implicate section 110(a)(2)(C). In the 2007 Guidance and the 2009 Guidance, however, EPA did not indicate to states that it intended to interpret these provisions as requiring a substantive submission to address these specific issues in existing SIP provisions in the context of the infrastructure SIPs for these NAAQS. Instead, EPA's 2007 Guidance merely indicated its belief that the states should make submissions in which they established that they have the basic SIP structure necessary to implement, maintain, and enforce the NAAQS. EPA believes that states can establish that they have the basic SIP structure, notwithstanding that there may be potential deficiencies within the existing SIP. Thus, EPA's proposals for other states mentioned these issues not because the Agency considers them issues that must be addressed in the context of an infrastructure SIP as required by section 110(a)(1) and (2), but rather because EPA wanted to be clear that it considers these potential existing SIP problems as separate from the pending infrastructure SIP actions. The same holds true for this action on the infrastructure SIPs for Mississippi.

EPA believes that this approach to the infrastructure SIP requirement is reasonable because it would not be feasible to read section 110(a)(1) and (2) to require a top to bottom, stem to stern, review of each and every provision of an existing SIP merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts that, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA considers the overall effectiveness of the SIP. To the contrary, EPA believes that a better approach is for EPA to determine which specific SIP elements from section 110(a)(2) are applicable to an infrastructure SIP for a given NAAQS, and to focus attention on those elements that are most likely to need a specific SIP revision in light of the new or revised NAAQS. Thus, for example, EPA's 2007 Guidance specifically directed states to focus on the requirements of section 110(a)(2)(G) for the 1997 $PM_{2.5}$ NAAQS because of the absence of underlying EPA regulations for emergency episodes for this NAAQS and an anticipated absence of relevant provisions in existing SIPs.

Finally, EPA believes that its approach is a reasonable reading of section 110(a)(1) and (2) because the statute provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow the Agency to take appropriate tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or otherwise to comply with the CAA.[16] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[17] Significantly, EPA's determination that an action on the infrastructure SIP is not the appropriate time and place to address all potential existing SIP problems does not preclude the Agency's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on the infrastructure SIP, EPA believes that section 110(a)(2)(A) may be among the statutory bases that the Agency cites in the course of addressing the issue in a subsequent action.[18]

V. What are the requirements of Section 128?

Section 128 of the CAA requires that states include provisions in their SIP to address conflicts of interest for state boards or bodies that oversee CAA permits and enforcement orders and disclosure of conflict of interest requirements. Specifically, CAA section 128(a)(1) necessitates that each SIP shall require that at least a majority of any

[14] *Id.,* at page 4. In retrospect, the concerns raised by commenters with respect to EPA's approach to some substantive issues indicates that the statute is not so ''self explanatory,'' and indeed is sufficiently ambiguous that EPA needs to interpret it in order to explain why these substantive issues do not need to be addressed in the context of infrastructure SIPs and may be addressed at other times and by other means.

[15] *See* ''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),'' from William T, Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Regions I–X, dated September 25, 2009 (the ''2009 Guidance'').

[16] EPA has recently issued a SIP call to rectify a specific SIP deficiency related to the SSM issue. See, ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revision,'' 76 FR 21639 (April 18, 2011).

[17] EPA has recently utilized this authority to correct errors in past actions on SIP submissions related to PSD programs. *See* ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. *See* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[18] EPA has recently disapproved a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See* 75 FR 42342, 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

board or body which approves permits or enforcement orders shall be subject to the described public interest service and income restrictions therein. Subsection 128(a)(2) requires that the members of 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.

Furthermore, section 128 affords the Administrator of EPA the authority to incorporate conflict of interest provisions that go beyond those required by the CAA into the SIP when such provisions are submitted by a state as part of its implementation plan.

VI. What is EPA's analysis of the Mississippi draft Section 128 revision?

As described above, Section 128 of the CAA requires that states include provisions in their SIP to address conflicts of interest and provide for adequate disclosure of such conflicts. In connection with these requirements, on July 13, 2012, Mississippi submitted a draft SIP revision for parallel processing (available for review in the Docket for today's action). This draft revision proposes to incorporate certain provisions of the Mississippi State Constitution and sections of the Mississippi Code into the SIP. These provisions are described below.

First, Mississippi seeks to incorporate Article 4, Section 109 of Mississippi Constitution into the SIP. Article 4, Section 109 provides that ''[n]o public officer or member of the legislature shall be interested, directly or indirectly, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member, during the term for which her shall have been chosen, or within one year after the expiration of such term.''

Second, Mississippi intends to incorporate provisions from the State's ethical charter as set forth in the Mississippi Code. Specifically, the State seeks to incorporate portions of Mississippi Code sections 25–4–25, –27, –29, –103, –105, and –109. For more information about the portions of the Sections Mississippi has sought to include in the SIP, please see the State's July 13, 2012, SIP Revision available in the docket for today's proposed action.

EPA is today proposing to incorporate these revisions, which have been submitted by Mississippi for parallel processing, into the SIP consistent with the authority provided by section 128 of the CAA.

VII. What is the Section 110(a)(2)(E)(ii) Infrastructure requirement?

Section 110(a)(2)(E)(ii) requires that each implementation plan provide that the state comply with the CAA section 128 requirements respecting state boards. In today's action, EPA is proposing to approve in part and disapprove in part Mississippi's SIP as meeting the requirements of section 110(a)(2)(E)(ii) (which is one of the three elements required pursuant to section 110(a)(2)(E)).[19]

VIII. What is EPA's analysis of how Mississippi addressed the Section 110(a)(2)(E)(ii) Infrastructure requirement?

Mississippi's July 13, 2012, draft SIP revision, proposes to include in the SIP the sections of the Mississippi Code and portions of the Mississippi Constitution described above to meet the requirements of section 128. The State asserts that these state laws and Constitutional provisions satisfy the requirements of CAA section 128 for the Mississippi Commission on Environmental Quality and the Mississippi Department of Environmental Quality Permit Board, which are the ''board[s] or bod[ies] which approve[] permits and enforcement orders'' under the CAA in Mississippi (hereafter, these two bodies will be collectively referred to as the ''MS Boards'').

With respect to meeting the section 128(a)(1) majority composition requirements regarding the public interest and significant portion of income tests, Mississippi asserts that the cited state laws and constitution comply with section 128(a)(1) by satisfying the requirement that any board or body which approves permits or enforcement orders shall be subject to the described public interest and income restrictions therein. Mississippi's draft SIP revision would incorporate laws into the SIP that preclude certain types of financial relationships between members of the MS Boards and persons subject the MS Boards' permitting decisions or enforcement orders. For example, Article 4, Section 9 of the Mississippi Constitution prohibits public officers from any interest in any contract with state or political subdivision thereof. Mississippi Code section 25–4–105 precludes public servants form using their position to obtain or attempt to obtain pecuniary benefit for him or herself and prevents such individuals from performing any service for compensation during his or her term or employment by which he or she attempts to influence a decision of the governmental entity of which he or she is a member. Mississippi Code section 25–4–105 also precludes persons from disclosing information gained by reason of his official position as a public servant in any way that could result in pecuniary benefit for himself, any relative or any other person, if that information is not publically available.

Based upon a review of these laws and provisions, EPA is today proposing to approve the section 110(a)(2)(E)(ii) submission as it relates to the public interest requirement of section 128(a)(1) and proposing to disapprove Mississippi's section 110(a)(2)(E)(ii) submission as it pertains to compliance with the significant portion of income requirement of section 128(a)(1). With respect to the public interest requirement, the provisions included in the draft submission apply to all members of the MS Boards, and according to the state, serve to ensure that all members of the board are precluded from serving in their self interest. EPA is today proposing to approve the State's section 110(a)(2)(E)(ii) submission, once the SIP revisions submitted to EPA for parallel processing on July 13, 2012, have been approved, as meeting the requirement to ensure that the SIP requires at least a majority of the members of the MS Boards to serve in the public interest as required by section 128(a)(1) of the CAA,

With respect to the significant portion of income requirement, the provisions included in the draft submission do not preclude at least a majority of the members of the MS Board from receiving a significant portion of their income from persons subject to permits or enforcement orders issued by the MS Boards. While the submitted laws and provisions preclude members of the MS Boards from certain types of income (e.g., contracts with State or political subdivisions thereof, or income obtained through the use of his or her public office or obtained to influence a decision of the MS Boards), they do not appear to preclude a majority of members of the MS Boards from deriving any significant portion of their income from persons subject to permits or enforcement orders so long as that income is not derived from one of the proscribed methods described in the laws and provisions submitted by the State. Because a majority of board members may still derive a significant

[19] EPA is taking action on 110(a)(2)(E)(i) and 110(a)(2)(E)(iii) as it relates to Mississippi in certification submissions dated December 7, 2007, for the 1997 $PM_{2.5}$ NAAQS, and October 6, 2009, for the 2006 $PM_{2.5}$ NAAQS, in a separate rulemaking.

portion of income from persons subject to permits or enforcement orders issued by the MS Boards, the Mississippi SIP on revised, will still not meet the section 128(a)(1) majority requirements respecting significant portion of income, and as such, EPA is today proposing to disapprove the State's 110(a)(2)(E)(ii) submission as it relates only to this portion of section 128(a)(1). As described herein, EPA is proposing approval of all other elements of 110(a)(2)(E)(ii).

Regarding the section 128(a)(2) requirement for the adequate disclosure of conflicts of interest, EPA is proposing to approve Mississippi's 110(a)(2)(E)(ii) submission as it relates to this requirement based upon the laws submitted by the State for parallel processing into the SIP. Specifically, Mississippi intends to incorporate Mississippi Code Section 25–4–25 into the SIP which requires that members of the MS Boards file annual statements of economic interest with the Mississippi Ethics Commission which are then made available for public inspection. The State is also seeking to incorporate Mississippi Code section 25–4–27 into the SIP. This section provides for the content of the annual statements of economic interest. EPA is today proposing to approve Mississippi's 110(a)(2)(E)(ii) submission as it relates to the conflict of interest disclosure requirements of section 128(a)(2), once the SIP revisions submitted to EPA for parallel processing on July 13, 2012, have been incorporated into the SIP.

IX. Proposed Action

As described above, EPA is proposing to approve in part and disapprove in part, Mississippi's July 13, 2012, infrastructure submission for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS addressing CAA section 110(a)(2)(E)(ii) requirements. Today's proposed approval of the above-described portions of the State's section 110(a)(E)(ii) submission is contingent upon the Agency taking final action to approve the substantive revisions to pertaining to section 128 also submitted by Mississippi for parallel processing on July 13, 2012. Specifically, EPA is today proposing to approve Mississippi's 110(a)(2)(E)(ii) submission as it relates to the public interest requirements described at section 110(a)(1) of the CAA and the conflict of interest disclosure provisions described at section 110(a)(2) of the CAA. EPA is also proposing to disapprove Mississippi's 110(a)(2)(E)(ii) submission as it relates to the significant portion of income requirements described at section 110(a)(1) of the CAA.

The Section 110(a)(2)(E)(ii) provision (specifically the significant portion of income provision described at section 128(a)(1) being proposed for disapproval in today's notice) was not submitted to meet requirements for Part D or a SIP call, and therefore, if EPA takes final action to disapprove this submittal, no sanctions will be triggered. However, if this disapproval action is finalized, that final action will trigger the requirement under section 110(c) that EPA promulgate a FIP no later than 2 years from the date of the disapproval unless the State corrects the deficiency, and EPA approves the plan or plan revision before EPA promulgates such FIP.

EPA notes that the Agency is addressing the other section 110(a)(2) requirements for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS for Mississippi's SIP in a rulemaking separate from today's proposed rulemaking.

In addition, to the above proposed actions respecting 110(a)(2)(E)(ii) infrastructure requirements, EPA is today also proposing to approve the SIP revisions related to section 128 submitted by Mississippi for parallel processing on July 13, 2012, into the SIP. EPA is proposing to approve Mississippi's Article 4, Section 109 of Mississippi Constitution and portions of Mississippi Code sections 25–4–25, –27, –29, –103, –105, and –109 into the Mississippi SIP. The specific provisions been proposed for inclusion in the Mississippi SIP are described more fully in the State's July 13, 2012, draft SIP revision which is available in the docket for today's action. As described above, Mississippi's July 13, 2012, submission was submitted for parallel processing. As such, the final rulemaking for this action by EPA will occur consistent with the elements of parallel processing previously described above in Section I.

X. 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 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 dioxide, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 1, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–19565 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0311; FRL–9687–2]

Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Sacramento Metropolitan Air Quality Management District (SMAQMD) portion of the California State Implementation Plan (SIP). This revision concerns the definition of volatile organic compounds (VOC). We are approving a local rule that helps regulate VOCs under the Clean Air Act, as amended (CAA or the Act).

DATES: Any comments on this proposal must arrive by September 10, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0311, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, EPA Region IX, (415) 947–4120, *allen.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rule: Rule 101. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: May 10, 2012.

Jared Blumeneld,

Regional Administrator, Region IX.

[FR Doc. 2012–19314 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0332; FRL–9687–7]

Revisions to the California State Implementation Plan, Mojave Desert, Northern Sierra, Sacramento Metropolitan and San Diego Air Pollution Agencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD), Northern Sierra Air Quality Management District (NSAQMD), Sacramento Metropolitan Air Quality Management District (SMAQMD) and San Diego County Air Pollution Control District (SDCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from automotive parts and component, automobile refinishing, metal parts and products, and miscellaneous coating and refinishing operations. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by September 10, 2012.

ADDRESSES: Submit comments, identified by docket number R09–OAR–2012–0332, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov*

and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Andy Steckel, EPA Region IX, (415) 947–4115, *Steckel.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: MDAQMD Rule 1116, Automotive Refinishing Operations; NSAQMD Rule 228, Surface Coating and Metal Parts and Products; SMAQMD Rule 459, Automotive, Mobile Equipment and Associated Parts and Components Coating, and SDCAPCD Rule 66.1, Miscellaneoous Coating. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: May 22, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–19316 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[Docket No. USCG–2012–0409]

RIN 1625–AB89

Great Lakes Pilotage Rates—2013 Annual Review and Adjust; Correction

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Coast Guard published a Notice of proposed rulemaking (NPRM) in the **Federal Register** on August 1, 2012 (77 FR 45539) proposing rate adjustments for pilotage services on the Great Lakes. The charge rate, as listed in § 401.407, Area 5 (Designated Waters) of that NPRM, is incorrect.

DATES: The notice of proposed rulemaking published in the **Federal Register** on August 1, 2012 (77 FR 45539) is corrected as of August 9, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Todd Haviland, Management & Program Analyst, Office of Great Lakes Pilotage, Commandant (CG–WWM–2), U.S. Coast Guard; telephone 202–372–1909, email *todd.a.haviland@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The NPRM published August 1, 2012 (77 FR 45539) contains an inaccurate value on page 45558. This correction amends row 3, column 5 of the table below in instruction (3) of the NPRM. The Coast Guard is republishing the table to correct the error.

Correction

In proposed rule FR Doc. 2012–18714, beginning on page 45539 in the issue of August 1, 2012, make the following correction. On page 45558, in, § 401.407, revise paragraph (b), including the footnote to Table (b), to read as follows:

§ 401.407 Basic rates and charges on Lake Erie and the navigable waters from Southeast Shoal to Port Huron, MI.

* * * * *

(b) Area 5 (Designated Waters):

Any point on or in	Southeast Shoal	Toledo or any point on Lake Erie west of Southeast Shoal	Detroit River	Detroit Pilot Boat	St. Clair River
Toledo or any port on Lake Erie west of Southeast Shoal	$2,339	$1,382	$3,037	$2,339	N/A
Port Huron Change Point	[1] 4,074	[1] 4,719	3,060	2,381	1,693
St. Clair River	[1] 4,074	N/A	3,060	3,060	1,382
Detroit or Windsor or the Detroit River	2,339	3,037	1,382	N/A	3,060
Detroit Pilot Boat	1,693	2,339	N/A	N/A	3,060

[1] When pilots are not changed at the Detroit Pilot Boat.

Dated: August 2, 2012.

Kathryn Sinniger,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2012–19348 Filed 8–8–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2012–0057; 4500030114]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List Desert Massasauga as Endangered or Threatened and To Designate Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list desert massasauga (*Sistrurus catenatus edwardsii*), a rattlesnake found in the southwestern United States, as endangered or threatened under the Endangered Species Act of 1973, as amended (Act), and to designate critical habitat. Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing desert massasauga may be warranted. We will initiate a review of the status of this subspecies to determine if listing is warranted. We are requesting scientific and commercial data and other information regarding this subspecies. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted as provided in section 4(b)(3)(B) of the Act.

DATES: We request that we receive information on or before October 9, 2012. The deadline for submitting an electronic comment using the Federal eRulemaking Portal (see **ADDRESSES** section, below) is 11:59 p.m. Eastern Time on this date. After October 9, 2012, you must submit information directly to the Division of Policy and Directives Management (see **ADDRESSES** section, below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for Docket No. FWS–R2–ES–2012–0057.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2012–0057; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept emails or faxes. We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Request for Information section below for more details).

FOR FURTHER INFORMATION CONTACT: Michelle Shaughnessy, Assistant Regional Director, Southwest Regional Office, 500 Gold Ave. SW., Room 6034, Albuquerque, NM 87102; by telephone at 505–248–6920; or by facsimile at 505–248–6788. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on desert massasauga from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The subspecies' biology, range, and population trends, including:

(a) Habitat requirements for reproduction, germination, and survival;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing, delisting, or downlisting determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

If, after the status review, we determine that listing desert massasauga is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act), under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we request data and information on:

(1) What may constitute ''physical or biological features essential to the conservation of the species'' within the geographical range currently occupied by the subspecies;

(2) Where these features are currently found;

(3) Whether any of these features may require special management considerations or protection;

(4) Specific areas outside the geographical area occupied by the subspecies that are ''essential for the conservation of the species;'' and

(5) What, if any, critical habitat you think we should propose for designation if the subspecies is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding are available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the U.S. Fish and Wildlife

Service, Southwest Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly conduct a species status review, which we subsequently summarize in our 12-month finding.

The ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will announce our determination as to whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day findings and status reviews conducted for a 12-month finding on a petition are different, as described above, a substantial 90-day finding does not mean that our status review and resulting determination will result in a warranted finding.

Petition History

On November 1, 2010, we received a petition dated October 28, 2010, from the WildEarth Guardians, requesting that desert massasauga be listed as endangered or threatened and critical habitat be designated under the Act. Alternatively, the petitioner requested listing of a distinct population segment of desert massasauga in Colorado, Kansas, and Oklahoma. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a December 1, 2011, letter to the WildEarth Guardians, we responded that we reviewed the information presented in the petition and determined that issuing an emergency regulation temporarily listing the subspecies under section 4(b)(7) of the Act was not warranted. We also stated that we intended to complete an initial finding in Fiscal Year 2012 as to whether this petition contains substantial information indicating that the action may be warranted. This 90-day finding addresses the October 28, 2010, petition.

Species Information

Taxonomy and Description

The desert massasauga (*Sistrurus catenatus edwardsii*) is a rattlesnake (Family Viperidae) classified as a subspecies of massasauga (*Sistrurus catenatus*) (Conant and Collins 1991, p. 232; Ernst and Ernst 2003, pp. 552–553; Collins and Taggart 2009, p. 32). As a widely recognized subspecies, it is a listable entity under the Act.

Mackessy (2005, p. 10) described the color of desert massasauga as gray to light brown, with 37 to 40 darker brown saddles or semicircular blotches, outlined in black, forming a regular pattern on the dorsal surface. A prominent dark brown to black stripe extends from the eye to the angle of the jaw, and a lyre-shaped or paired irregular set of stripes extends from the dorsal surface of the head to the first body blotch. The base of the rattle on the tail is typically black, but in neonates (young snakes), the tip is yellow. The desert massasauga is relatively small compared to other rattlesnakes, reaching a maximum adult total length of 588 millimeters (mm) (23 inches (in)) (Holycross 2001, p. 59), with an average length of about 380 mm (15 in) (Mackessy 2005, p. 27).

The desert massasauga is venomous, and the venom is used to acquire prey and is toxic to humans. However, due to its small adult size, venom yields are low, and bites to humans, although potentially serious, are not likely to be life-threatening (Mackessy 2005, p. 10). The probability of a desert massasauga biting a human is also very low because there is only a small chance of encountering the snake due to its nocturnality; spotty distribution; and generally cryptic, elusive, and nonaggressive behavior (Werler and Dixon 2000, p. 404).

Habitat

The desert massasauga occurs in a variety of grassland and shrubland habitats, including shortgrass prairie, sandsage grasslands, shinnery oak, Chihuahuan desert, and occasionally sand dune habitat (Degenhardt *et al.* 1996, p. 356; Hobert *et al.* 2004, p. 323; Mackessy 2007, p. 2). Studies in Colorado have shown it inhabits primarily shortgrass prairie habitat with *Artemisia filifolia* (sand sage), *Buchloe dactyloides* (buffalograss), and *Bouteloua gracilis* (blue grama) below about 1,500 meters (5,000 feet) in elevation. Although the species is adapted to xeric (dry) conditions, the subspecies is most abundant in areas of prairie with more mesic (moist) conditions (Mackessy 2005, p. 23). The snake uses grasses for capturing prey and avoiding predators, as these areas provide protective cover. The subspecies is not often found in scrub or shrub habitats in most parts of its range.

Life History

The biology of the desert massasauga has been studied in some detail in some parts of its range. The snakes hibernate from October to mid-April in Colorado (Hobert *et al.* 2004, p. 324), and from November to March in New Mexico (Degenhardt *et al.* 1996, p. 357) with presumably similar timeframes of hibernation in other parts of its range. They commonly use rodent burrows for hibernation and as birthing sites (Mackessy 2005, pp. 16–17, 23; Mackessy 2007, p. 8). They are mainly nocturnal and may migrate up to 2 kilometers (km) (1.2 miles (mi)) seasonally between locations used for winter hibernation and those used during active periods (Ernst and Ernst 2003, p. 554; Mackessy 2005, pp. 20–21). Desert massasauga feed on a wide variety of prey, including lizards, small mammals, and centipedes (Holycross and Mackessy 2002, p. 456). Females have been observed to give birth in the summer to between 4 and 8 young (Hobert *et al.* 2004, pp. 324–325; Mackessy 2005, p. 29), and may not reproduce every year (Goldberg and Holycross 1999, p. 531). Most adults collected in the field were estimated to be 4 years old or less, though members of the subspecies have lived more than 14 years in captivity.

Distribution and Abundance

The range of desert massasauga is reported with some variation in published accounts, but the subspecies is known to occur from central-western and southern Texas, southeastern

Colorado, southern New Mexico, southeastern Arizona, and northern Mexico (Conant and Collins 1991, map 193; Werler and Dixon 2000, pp. 402–403). Historically, the snakes may have occurred in far western Oklahoma and extreme southwestern Kansas contiguous with the range in Colorado, but their present occurrence in both States is unknown (Mackessy 2005, p. 10). Anderson *et al.* (2009, pp. 740–741) provide the most recent description of the range as a series of isolated populations, rather than a continuous distribution.

The desert massasauga in southeastern Colorado is especially disjunct from the rest of the range of the subspecies. The taxonomic relationship of this population to the rest of the other massasauga subspecies was uncertain (Maslin 1965, p. 34) until more analysis by Hobert in 1997 (as cited in Hobert *et al.* 2004, p. 322) placed them as the desert massasauga subspecies. The range of the subspecies in Texas occurs in disjunct populations in far south Texas, including portions of the Gulf Coast, and western and central Texas, east of the Brazos River, where it adjoins the range of the western massasauga (Werler and Dixon 2000, pp. 402–403). However, the distribution map by Anderson *et al.* (2009, p. 741) shows a larger separation between the two subspecies in Texas. In New Mexico, it occurs in the southeastern part of the State contiguous with western Texas and then in isolated populations in the middle and lower Rio Grande Valley across south-central New Mexico (Anderson *et al.* 2009, pp. 740–741). In Arizona, it occurs in the extreme southeastern part of the State (Anderson *et al.* 2009, pp. 740–741). Only two small disjunct populations are known from Mexico, but extensive searches there have not been conducted (Ernst and Ernst 2003, p. 553). Mackessy (2005, pp. 12, 15) hypothesized that the historic range was likely continuous from southeastern Colorado to northern Mexico but has been fragmented due to climatic changes effecting the distribution of the shortgrass prairie of the Great Plains and human-caused factors that resulted in habitat loss. The current patchy distribution has been hypothesized as a consequence of both narrow ecological tolerances and Holocene (about 12,000 years before present) climate changes (becoming drier) that have fragmented suitable habitat (Greene 1997 in Anderson *et al.* 2009, p. 740).

Across the range, population sizes and trends for the desert massasauga are largely unknown due to the paucity of data collection and analysis. However, numerous herpetologists have made general assessments on the status of the subspecies. For example, Werler and Dixon (2000, p. 406) state that continued alteration of the massasauga's open habitat for farmland and suburban housing development has caused a significant decline in the snake's numbers. In 2001, the Arizona Game and Fish Department (2001, p. 3) reported that, while quantified data are lacking, the desert massasauga has almost certainly experienced long-term population declines and a general range contraction in Arizona. The populations in southeastern Colorado are exceptions, and long-term research there has indicated that local populations in some parts of the State are ''reasonably robust and stable'' due to intact habitat conditions (Mackessy 2005, p. 12).

Evaluation of Information for This Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species may warrant listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively may not be sufficient to compel a finding that listing may be warranted. The information must contain evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of endangered or threatened under the Act.

In making this 90-day finding, we evaluated whether information regarding the status and threats to the desert massasauga, as presented in the petition and other information readily available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

Evaluation of Petition Information and Finding for Desert Massasauga

The petition presented information regarding the following factors as potential threats to the desert massasauga: Conversion of native grasslands to crops, heavy livestock grazing, urbanization, energy development, desertification, water diversion and depletion, loss of rodent prey base, proliferation of noxious weeds, direct killing, collection for the pet trade, predation from natural predators, paramyxovirus (disease), inadequacy of existing regulatory mechanisms, death from vehicle strikes, natural vulnerability (low fecundity, low survivorship, and short lifespan), fragmentation and isolation, human population growth, drought and climate change, and the cumulative impact of these threats. After reviewing the information provided in the petition and information available in our files, we have determined that there is substantial information to indicate the desert massasauga may warrant listing as a result of habitat degradation (from land conversion to cultivated croplands and heavy livestock grazing) and death from vehicular strikes.

Habitat Degradation and Loss

The petition states that habitat degradation and loss are primary threats to the desert massasauga and cites a number of sources to support this position. The specific causes of habitat degradation and loss cited in the petition include conversion to crops, heavy livestock grazing, urbanization, energy development, desertification, water diversion and depletion, loss of the rodent prey base, and proliferation of noxious weeds. Our review of the petition and information in our files found substantial information that significant habitat degradation and loss may be occurring as a result of

agricultural land use (conversion of native grasslands to crops) and heavy livestock grazing.

In support of conversion to crops as a source of habitat loss to the species, the petition cites Mackessy (2005, p. 24), who reports that the conversion of grassland to farmland is a concern to the subspecies in southeastern Colorado. When native shortgrass prairie is converted to cultivated agricultural fields, the habitat for the desert massasauga is directly and completely lost. The snake is not able to complete its life-history needs in cultivated fields due to absence of shelter, prey, and hibernation sites, resulting in a loss of individuals of the subspecies and decline in the size of local populations (Mackessy 2005, p. 42). In addition to direct habitat loss, farmland also fragments the remaining native habitats and may impact the subspecies by isolating populations from one another. This population isolation may put populations at greater risk of loss by resulting in lower population sizes (which are more vulnerable to stochastic events), as well asthe prevention of the exchange of genetic material between populations. The petition does not provide any information on the geographic extent of crop conversion across the snake's range outside of Colorado. However, the effects of crop conversion has occurred to at least some extent in other parts of the range, because Anderson *et al.* (2009, p. 740) cites encroachment of agriculture as one of the significant causes of decline and extirpation of desert massasauga populations.

In support of heavy livestock grazing as a source of habitat loss, the petition cites several sources. Mackessy (2005, p. 24) explains that livestock *per se* are compatible with the conservation of the desert massasauga; however, if overgrazing results in severe degradation of the native shortgrass prairie in Colorado, then habitats will be altered and the desert massasauga will not be able to inhabit these areas. Mackessy (2005, p. 47) also states that properly managed grazing can be compatible with desert massasauga, but overgrazing can severely degrade habitat. Zwartjes *et al.* (2005, p. 22) also reports that desert massasauga are grassland specialists that respond negatively to degradation of pure grasslands by invasive shrub encroachment, which can result from landscape changes due to improper grazing management. They concluded that conversion of grasslands to scrublands in the Southwest (Arizona and New Mexico) have severe negative effects on most populations of desert massasauga due to a loss of protective cover (Zwartjes *et al.* 2005, p. 22). Ernst and Ernst (2003, p. 557) state that the loss of grasslands in the Southwest due to overgrazing has eliminated much of the snake's original habitat. While the petition does not provide specific information on the geographic extent of the concerns for overgrazing, most of the snake's range is used for livestock grazing, which has been a long-time concern for land management and conservation of wildlife in the Southwest (Zwartjes *et al.* 2005, p. 22).

Mortality From Vehicular Strikes

The petition explains that one indirect consequence of any land development, whether for urbanization, agriculture, or energy, is the building and maintenance of roadways across the habitat of the desert massasauga. During active periods for migration and movement in the spring and fall, snakes will cross roadways and at other times will also use roads as basking sites in the evening for the residual warmth provided by the road (Mackessy 2005, p. 41). As a result, vehicle strikes of snakes on roads have been cited by researchers as a significant source of mortality for the desert massasauga (Werler and Dixon 2000, p. 403; Anderson *et al.* 2009, p. 740). In one intensive study in Arizona, 47.5 percent of all desert massasaugas encountered along one stretch of roadway (out of a total of 99 encounters) were found dead due to vehicle strikes (Holycross and Douglas 1996, p. 10). During one week in May 2005, a Colorado landowner collected 15 dead desert massasaugas along a 1.6-km (1-mi) stretch of a remote, rarely traveled gravel road (Mackessy 2005, p. 46). Mackessy (2005, p. 46) observed that the strikes not only occurred accidentally but also intentionally, as drivers sought to run over rattlesnakes observed in the road. In reviewing the natural predators of desert massasaugas, Ernst and Ernst (2003, p. 556) concluded, ''* * * humans (through habitat destruction and roadkills) probably eliminate more massasaugas each year than all natural predators combined.'' We are not aware of any quantitative studies analyzing the population-level effects caused by the loss of individuals from vehicular strikes across the subspecies' range. Roadways occur throughout the subspecies' range, and future development will bring more roads into habitats of the desert massasauga. In areas where roadways are dense or where roads exist in high-quality desert massasauga habitats, vehicular strikes may have significant negative effects on the subspecies due to high levels of mortality reducing the number of adult snakes in local populations resulting in potential population-level effects to the subspecies.

Finding

The information presented in the petition indicates that the desert massasauga is subject to negative effects resulting from habitat degradation (from land conversion to cultivated croplands and heavy livestock grazing) and vehicular strikes. In addition, information is presented that indicates the subspecies may have undergone some range reduction over time and may be experiencing population declines in some portions of its range. This information is sufficient to suggest that these factors may be operative threats that act on the subspecies to the point that it may meet the definition of endangered or threatened under the Act. Therefore, on the basis of our determination under section 4(b)(3)(A) of the Act, we find that the petition presents substantial scientific or commercial information indicating that listing the desert massasauga throughout its entire range may be warranted. Because we have found that the petition presents substantial information indicating that listing the desert massasauga may be warranted, we will initiate a status review to determine whether listing the desert massasauga under the Act is warranted. If necessary, we will also evaluate during the status review whether a distinct population segment of desert massasauga in Colorado, Kansas, and Oklahoma warrants listing.

This finding was made primarily based on the information related to habitat degradation (from land conversion to cultivated croplands and heavy livestock grazing) and vehicular strikes. We will evaluate all information under the five factors during the status review under section 4(b)(3)(B) of the Act. As noted above, the petition also presented information that there may be other potential threats to the desert massasauga. We will fully evaluate these potential threats during our status review, pursuant to the Act's requirement to review the best available scientific information when making that finding. Accordingly, we encourage the public to consider and submit information related to these and any other threats that may be operating on the desert massasauga (see ''Request for Information'').

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request

from the Southwest Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Southwest Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 26, 2012.

Thomas O. Melius,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2012–19476 Filed 8–8–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2011–0098; 4500030113]

RIN 1018–AX14

Endangered and Threatened Wildlife and Plants; Listing 38 Species on Molokai, Lanai, and Maui as Endangered and Designating Critical Habitat on Molokai, Lanai, Maui, and Kahoolawe for 135 Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are extending the comment period on our proposed rule to, among other things, list 38 species on the Hawaiian Islands of Molokai, Lanai, and Maui as endangered species under the Endangered Species Act of 1973, as amended, and designate critical habitat on Molokai, Lanai, Maui, and Kahoolawe for 135 species. We made the proposed rule available for public comment on June 11, 2012.

DATES: The comment period end date is September 10, 2012. The deadline for submitting an electronic comment using the Federal eRulemaking Portal (see **ADDRESSES** section, below) is 11:59 p.m. Eastern Time on this date. After September 10, 2012, you must submit information directly to the Division of Policy and Directives Management (see **ADDRESSES** section below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R1–ES–2011–0098, which is the docket number for this action. Then click on the Search button. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2011–0098; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Request for Information section below for more details).

FOR FURTHER INFORMATION CONTACT: Loyal Mehrhoff, Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Box 50088, Honolulu, HI 96850; by telephone at 808–792–9400; or by facsimile at 808–792–9581. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 2012 (77 FR 34464), we published in the **Federal Register**, for review and comment, a proposed rule to list 38 species (35 plants and 3 tree snails) on the Hawaiian Islands of Molokai, Lanai, and Maui as endangered species, and concurrent designation of 271,062 acres (ac) (109,695 hectares (ha)) as critical habitat. We are also proposing revision of critical habitat for 85 plants and designation of critical habitat for 11 listed plants and animals that do not have designated critical habitat on these islands. Approximately 47 percent of the area being proposed as critical habitat is already designated as critical habitat for the 85 plant species or for other species. We also propose to delist the plant *Gahnia lanaiensis,* due to new information that this species is synonymous with *G. lacera,* a widespread species from New Zealand. In addition, we propose name changes or corrections for 11 endangered plants and 2 endangered birds, and we propose to reaffirm the listings for 2 endangered plant species with taxonomic revisions. We are also considering excluding approximately 40,973 ac (16,581 ha) of privately owned lands on Maui and Molokai.

We received a request to extend the public comment period beyond the August 10, 2012, due date on our June 11, 2012 (77 FR 34464), proposal. We are working with our partners and local landowners to inform them of the proposed listings and critical habitat designations. In order to ensure that the public has an adequate opportunity to review and comment on our proposed rule, we are extending the comment period for an additional 30 days.

Request for Information

We will accept written comments and information during this extended comment period. We will consider information and recommendations from all interested parties and intend that any final action resulting from this proposal will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we solicit comments or suggestions on this proposed rule from the public, other concerned governmental agencies, the scientific community, industry, or other interested parties. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning threats (or the lack thereof) to the 40 species proposed or being reevaluated for listing, and regulations that may be addressing those threats.

(2) Additional information concerning the range, distribution, and population sizes of each of the 40 species proposed or being reevaluated for listing, including the locations of any additional populations of these species.

(3) Any information on the biological or ecological requirements of the 40 species proposed or being reevaluated for listing.

(4) The reasons why we should or should not designate areas for any of the species in this proposal as ''critical habitat'' under section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), including whether there are threats to these species from human activity, the degree to which can be expected to increase due to the designation, and whether the benefit of designation would outweigh threats to these species caused by the designation, such that the designation of critical habitat is prudent.

(5) Whether a revision of critical habitat is warranted for the 85 plant species that are already listed as endangered or threatened under the Act and that currently have designated critical habitat.

(6) Specific information on:

- The amount and distribution of critical habitat for the species included in this proposed rule;

• What areas currently occupied, and that contain the necessary physical or biological features essential for the conservation of the species, we should include in the designation and why;

• Whether special management considerations or protections may be required for the physical or biological features essential to the conservation of the species in this proposed rule; and

• What areas not currently occupied are essential to the conservation of the species and why.

(7) Land use designations and current or planned activities in the areas occupied by the species, and the possible impacts of critical habitat on these designations or activities.

(8) Any foreseeable economic, national security, or other relevant impacts of designating any area as critical habitat. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas that may experience these impacts.

(9) Whether the benefits of excluding any particular area from critical habitat outweigh the benefits of including that area as critical habitat under section 4(b)(2) of the Act, after considering the potential impacts and benefits of the proposed critical habitat designation. Under section 4(b)(2), the Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of including that particular area as critical habitat, unless failure to designate that specific area as critical habitat will result in the extinction of the species. We request specific information on:

• The benefits of including specific areas in the final designation and supporting rationale;

• The benefits of excluding specific areas from the final designation and supporting rationale; and

• Whether any specific exclusions may result in the extinction of the species and why.

(10) Whether the proposed critical habitat on private lands and under consideration for exclusion under section 4(b)(2) of the Act should or should not be excluded and why.

(11) Information concerning any habitat conservation or management plans, conservation plans or programs, or other such agreements for our consideration under section 4(b)(2) of the Act.

(12) Information on the projected and reasonably likely impact of climate change on the species included in this proposed rule, and any special management needs or protections that may be needed in the critical habitat areas we are proposing.

(13) Information on any special management needs or protections that may be needed in the critical habitat areas we are proposing.

(14) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

(15) Our proposal to revise taxonomic classifications with name changes or family changes for 11 plant species and 2 bird species identified in the proposed rule.

(16) Specific information on ways to improve the clarity of this rule as it pertains to completion of consultations under section 7 of the Act.

For more background on our proposed rule, see the June 11, 2012, **Federal Register**. The proposed rule is available at the Federal eRulemaking Portal at *http://www.regulations.gov* (see **ADDRESSES** section above).

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in our final rulemaking. Our final determination concerning this proposed rulemaking will take into consideration all written comments and any additional information we receive.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2011–0098, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2011–0098, or by mail from the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff of the U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 30, 2012.

Rowan W. Gould,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2012–19487 Filed 8–8–12; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 77, No. 154

Thursday, August 9, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0065]

Notice of Request for Extension of Approval of an Information Collection; Horse Protection Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

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

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the Horse Protection Program.

DATES: We will consider all comments that we receive on or before October 9, 2012.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0065-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0065, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0065* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 779–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on regulations for the Horse Protection Program, contact Dr. Rachel Cezar, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; (301) 851–3751. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Horse Protection Regulations.

OMB Number: 0579–0056.

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

Abstract: In 1970, Congress passed the Horse Protection Act (15 U.S.C. 1821 *et seq.*), referred to below as the Act, that prohibits the showing, sale, auction, exhibition, or transport of horses subjected to a cruel and inhumane practice referred to as ''soring.'' This practice causes a horse to suffer pain in any of its limbs for the purpose of affecting the horse's performance in competition. All breeds of horses are covered under the Act, although enforcement emphasis has historically been placed on Tennessee Walking horses and other gaited breeds due to the prevalence of soring documented in that industry.

To carry out the Act, the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) administers and enforces regulations at 9 CFR part 11. The regulations prohibit devices and methods that might sore horses. They also contain provisions under which show management may, to avoid liability for any sore horses that are shown, hire private individuals trained to conduct preshow inspections. These individuals are referred to as designated qualified persons (DQPs). DQPs must be trained and licensed under USDA-certified and monitored programs that are sponsored by horse industry organizations (HIOs).

Enforcement of the Act and its regulations relies on horse inspections conducted by APHIS veterinarians and by DQPs. To ensure that DQP enforcement and USDA-certified DQP programs are effective, APHIS requires DQPs, HIOs, and horse show management to maintain or submit to APHIS records related to these inspections, their DQP programs, and the horse events. No official government form is necessary for the reporting and recordkeeping required.

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

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

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

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

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

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

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.6280 hours per response.

Respondents: Designated qualified persons, horse industry organizations, and horse show management.

Estimated annual number of respondents: 1,514.

Estimated annual number of responses per respondent: 2.3831.

Estimated annual number of responses: 3,608.

Estimated total annual burden on respondents: 2,266 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 3rd day of July 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–19501 Filed 8–8–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0037]

Notice of Request for a Revision to and Extension of Approval of an Information Collection; Qualitative Feedback on Agency Service Delivery

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and an extension of approval of an information collection associated with qualitative customer and stakeholder feedback on service delivery by the Animal and Plant Health Inspection Service.

DATES: We will consider all comments that we receive on or before October 9, 2012.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0037-0001*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0037, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0037* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For copies of more detailed information on this information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 0579–0377.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The proposed information collection activity provides a means for the Animal and Plant Health Inspection Service (APHIS) to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Agency's commitment to improving service delivery.

By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. This collection will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

APHIS will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collection is voluntary;
- The collection is low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and is low-cost for both the respondents and the Federal Government;
- The collection is non-controversial and does not raise issues of concern to other Federal agencies;
- The collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of APHIS (if released, APHIS must indicate the qualitative nature of the information);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collection will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding this study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, this information collection will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

APHIS currently has approval from the Office of Management and Budget (OMB) for this information collection. This approval is for 250 burden hours, based on our initial request to OMB in April 2011. We now realize we underestimated the interest that there would be in using this information collection activity, and we are requesting approval for additional hours.

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

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

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

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

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

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

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Individuals and households; businesses and organizations; State, local, or Tribal government.

Estimated annual number of respondents: 70,000.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 70,000.

Estimated total annual burden on respondents: 17,500 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 3rd day of August 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–19536 Filed 8–8–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0059]

Notice of Request for Extension of Approval of an Information Collection; Plant Protection and Quarantine Stakeholder/Customer Satisfaction Survey

AGENCY: Animal and Plant Health Inspection Service, USDA.

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

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with a Plant Protection and Quarantine stakeholder/customer satisfaction survey.

DATES: We will consider all comments that we receive on or before October 9, 2012.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS–2012–0059–0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0059, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS–2012–0059* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the Plant Protection and Quarantine stakeholder/customer satisfaction survey, contact Mr. Christopher Bembenek, Communications Customer Service, PPQ, RPM, APHIS, 4700 River Road, Riverdale, MD 20737; (301) 851–2046. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Plant Protection and Quarantine; Stakeholder/Customer Satisfaction Survey.

OMB Number: 0579–0360.

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

Abstract: In 2003, the Plant Health Programs (PHP) unit, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, obtained from the International Organization for Standardization (ISO, a nongovernmental, worldwide network of national standards institutes) certification in the ISO 9001:2000 standard for its permit services. The ISO 9001:2000 standard specifies the requirements for a quality management system. To meet the ISO 9001:2000 standard, an organization must demonstrate its ability to consistently provide a product that meets customer quality requirements and applicable regulatory requirements, while aiming to enhance customer satisfaction through effective application of the system, including processes for continual improvement of its performance.

In 2009, PHP did not renew its certification in the ISO 9001:2000 standard due to internal agency changes; however, PHP determined that it wanted to continue to measure the performance of its quality management system by monitoring information related to customer perception in relationship to customer requirements. PHP has determined that the best method for obtaining this information is through the use of stakeholder/customer satisfaction surveys. PHP will use responses derived from these surveys to develop new processes and modify existing procedures to provide customers with the optimal level of service.

The survey is intended to solicit stakeholder and customer feedback with regard to their satisfaction with the regulatory services of Permit Services and Pest Permit Evaluations. Responses from the survey recipients will be voluntary. After the information collection request is approved by the Office of Management and Budget (OMB), PHP would allow stakeholders and customers to complete surveys in one of several ways:

- Customers and stakeholders contacting PHP by telephone will be given the option to complete a brief survey following their conversation with a staff member.
- Customers and stakeholders will have surveys emailed to them for completion and return by email or facsimile.

• Customers and stakeholders will have survey invitations containing a link to a short, online survey emailed to them.

• Customers and stakeholders who call APHIS toll-free number (877–770–5990) can select the option to take the survey.

• Customers and stakeholders who contact Permit Services by telephone will have their telephone number captured at the end of the call. The Interactive Voice Response's automatic call attendant will randomly select a number. The call attendant will call and greet the individual, and provide an opportunity for the individual to participate in the survey.

We are asking OMB to approve our use of these information collection activities for 3 years.

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

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

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

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

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

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.16 hours per response.

Respondents: Persons who require a permit.

Estimated annual number of respondents: 500.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 500.

Estimated total annual burden on respondents: 48 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 3rd day of August 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–19535 Filed 8–8–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ketchikan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ketchikan Resource Advisory Committee will meet in Ketchikan, Alaska, September 11, 2012. The purpose of this meeting is monitoring of projects being implemented under Public Law 110–343 and if authorized by the Secretary of Agriculture by the meeting date, to review and recommend projects to be funded under Public Law 112–141.

DATES: The meeting will be held September 11, 2012 at 5 p.m.

ADDRESSES: The meeting will be held at the Ketchikan-Misty Fiords Ranger District, 3031 Tongass Avenue, Ketchikan, Alaska. Send written comments to Ketchikan Resource Advisory Committee, c/o District Ranger, USDA Forest Service, 3031 Tongass Ave., Ketchikan, AK 99901, or electronically to Diane Daniels, RAC Coordinator at *ddaniels@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Diane Daniels, RAC Coordinator Ketchikan-Misty Fiords Ranger District, Tongass National Forest, (907) 228–4105.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: July 30, 2012.

Jeff DeFreest,

District Ranger.

[FR Doc. 2012–19203 Filed 8–8–12; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Umatilla National Forest, Columbia County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Umatilla National Forest, Columbia County Resource Advisory Committee will meet in Dayton, Washington as authorized under the Secure Rural Schools and Community Self-Determination Act. Purpose of the meeting will be to monitor projects being implemented under Public Law 110–343 and if authorized by the Secretary of Agriculture by the meeting date, to review and recommend projects to be funded under Public Law 112–141. This meeting is open to the public.

DATE: Meeting will be held on September 17, 2012, and will begin at 7 p.m.

ADDRESSES: Meeting will be held at the U.S. Post Office, 202 South Second Street, Dayton, WA. Written comments should be sent to Monte Fujishin, Pomeroy Ranger District, 71 West Main Street, Pomeroy, WA 99347. Comments may also be sent via email to *mfujishin@fs.fed.us,* or via facsimile to 509–843–4621.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. Interested publics may inspect comments received at Pomeroy Ranger District, 71 West Main Street, Pomeroy, WA 99347. Visitors are encouraged to call ahead to 509–843–1891 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Monte Fujishin, RAC Designated Federal Official, USDA, Umatilla National Forest, Pomeroy Ranger District, 71 West Main Street, Pomeroy, WA 99347; (509) 843–1891; Email *mfujishin@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Idaho, Washington Relay Service at 1–800–377–3529, 24 hours a day, 365 days a year.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Monitor and review progress of projects implemented under Public Law 110–343, (2) If authorized by the Secretary of Agriculture by the meeting date, to review and recommend projects to be funded under Public Law 112–141, and if there are participants, (3) Public Comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: August 1, 2012.

Monte Fujishin,

Designated Federal Officer.

[FR Doc. 2012–19494 Filed 8–8–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Umatilla National Forest, Southeast Washington Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Umatilla National Forest, Southeast Washington Resource Advisory Committee will meet in Pomeroy, Washington as authorized under the Secure Rural Schools and Community Self-Determination Act, as amended, in compliance with the Federal Advisory Committee Act. Purpose of the meeting will be to monitor projects being implemented under Public Law 110–343 and if authorized by the Secretary of Agriculture by the meeting date, to review and recommend projects to be funded under Public Law 112–141. This meeting is open to the public.

DATE: Meeting will be held on September 10, 2012, and will begin at 7 p.m.

ADDRESSES: Meeting will be held at the Pomeroy Ranger District Office, 71 West Main Street, Pomeroy, WA. Written comments should be sent to Monte Fujishin, Pomeroy Ranger District, 71 West Main Street, Pomeroy, WA 99347. Comments may also be sent via email to *mfujishin@fs.fed.us,* or via facsimile to 509–843–4621.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. Interested publics may inspect comments received at Pomeroy Ranger District, 71 West Main Street, Pomeroy, WA 99347. Visitors are encouraged to call ahead to 509–843–1891 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Monte Fujishin, RAC Designated Federal Official, USDA, Umatilla National Forest, Pomeroy Ranger District, 71 West Main Street, Pomeroy, WA 99347; (509) 843–1891; Email: *mfujishin@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Idaho, Washington Relay Service at 1–800–377–3529, 24 hours a day, 365 days a year.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Monitor and review progress of projects implemented under Public Law 110–343, (2) If authorized by the Secretary of Agriculture by the meeting date, to review and recommend projects to be funded under Public Law 112–141, and if there are participants, (3) Public Comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: August 1, 2012.

Monte Fujishin,

Designated Federal Officer.

[FR Doc. 2012–19492 Filed 8–8–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Shoshone Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Shoshone Resource Advisory Committee (Committee) will hold a meeting on September 19, 2012. The Committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to select projects to recommend for 2012 Title II funds.

DATES: The meeting will be held September 19, 2012, at 9 a.m.

ADDRESSES: The meeting will be held at Big Horn Federal Savings, 643 Broadway, Thermopolis, WY. Written comments should be sent to Olga Troxel, Shoshone National Forest, 808 Meadow Lane, Cody, WY 82414. Comments may also be sent via email to *otroxel@fs.fed.us,* or via facsimile to 307–578–5112.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Shoshone National Forest, 808 Meadow Lane, Cody, WY 82414. Visitors are encouraged to call ahead to 307–527–6241 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Olga Troxel, Resource Advisory Committee Coordinator, Shoshone National Forest Supervisor's Office, (307) 578–5164.

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 Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: Finish reviewing project proposals and select projects to recommend for 2012 SRS Title II funding. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided.

Dated: August 3, 2012.

Joseph G Alexander,

Forest Supervisor.

[FR Doc. 2012–19496 Filed 8–8–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–849]

Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Preliminary Results of Antidumping Administrative Review and Preliminary Determination of No Shipments

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

DATES: *Effective Date:* August 9, 2012.

SUMMARY: The Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate (''CTL plate'') from the People's Republic of China (''PRC'') for the period of review (''POR'') November 1, 2010, through October 31, 2011. This review covers four PRC companies.[1] The Department preliminarily finds that Baosteel and Hunan Valin did not have reviewable transactions during the POR. Further, the Department preliminarily finds that because the other two respondents, Anshan and Liaoning, did not establish their eligibility for separate rate status, they will be treated as part of the PRC-wide entity. We intend to issue the final results no later than 120 days from the

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 76 FR 82268 (December 30, 2011) (''*Initiation Notice*''). The companies included in the review are as follows: Bao/Baoshan International Trade Corp./Bao Steel Metals Trading Corp. (''Baosteel''), Hunan Valin Xiangtan Iron & Steel Co., Ltd. (''Hunan Valin''), Anshan Iron & Steel Group (''Anshan''), and China Metallurgical Import and Export Liaoning Company (''Liaoning'').

date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the ''Act'').

FOR FURTHER INFORMATION CONTACT:

Patrick O'Connor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0989.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2011, the Department published a notice of an opportunity to request an administrative review of the antidumping duty order on CTL plate from the PRC.[2] On November 30, 2011, Nucor Corporation (''Petitioner'') requested a review of four companies.[3] On December 30, 2011, the Department initiated the review of these four companies.[4] On January 3, 2012, the Department notified parties that the results of our U.S. Customs and Border Protection (''CBP'') query indicated that none of the companies for which Petitioner requested a review had shipped subject merchandise during the POR.[5] On January 9, 2012, Petitioner placed certain data on the record from a secondary source and claimed that Hunan Valin sold subject merchandise to the United States during the POR at less than normal value. Petitioner requested that the Department verify the results of the CBP query with a separate quantity and value questionnaire.[6] Baosteel and Hunan Valin each certified that the company had no shipments of subject merchandise to the United States during the POR on January 24, 2012,[7] and February 28, 2012,[8] respectively. On March 21, 2012, the Department sent a request to CBP to identify any information contrary to Baosteel's and Hunan Valin's claims of no-shipments.[9]

Scope of the Order

The product covered by the order is certain cut-to-length carbon steel plate from the People's Republic of China. Included in this description is hot-rolled iron and non-alloy steel universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters (''mm'') but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns of relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated nor coated with metal, whether or not painted, varnished, or covered with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this order are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7212.40.5000, 7212.50.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive. Specifically excluded from subject merchandise within the scope of the order is grade X–70 steel plate.

Preliminary Determination of No Shipments

As noted in the ''Background'' section above, Baosteel and Hunan Valin have submitted timely-filed certifications indicating that they had no shipments of subject merchandise to the United States during the POR. In addition, CBP did not provide any evidence that is contradictory to Baosteel's and Hunan Valin's claims of no shipments in response to our no-shipment inquiry asking CBP for such information.[10] Further, on January 3, 2012, the Department released to interested parties the results of a CBP query that it intended to use for corroboration of Baosteel's and Hunan Valin's no shipment claims. The Department received comments from Petitioner concerning the results of the CBP query.[11]

Although Petitioner argues that the data from its secondary source show that the results of the Department's CBP query are inconclusive with respect to Hunan Valin,[12] when determining whether entries were made, the Department's preference is to use CBP data because they are a primary source, as opposed to a secondary source, which may be prone to errors in the data collection and aggregation process.[13] Moreover, the Department weighs CBP data more heavily because it contains the actual entry information for shipments. The data that Petitioner put on the record reflect secondary information, derived from shipping manifests, and are not necessarily a representation of products that have entered for consumption. Thus, we find that the CBP data are a more reliable source. Further, although Petitioner requested that the Department issue a quantity and value questionnaire to Hunan Valin, the company has already reported that it made no shipments of subject merchandise during the POR; thus, it is not necessary to request further information from Hunan Valin in the form of a separate quantity and value questionnaire per Petitioner's request.

Based on the certifications of Baosteel and Hunan Valin and our analysis of CBP information, we preliminarily determine that Baosteel and Hunan Valin did not have any reviewable transactions during the POR. In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in NME cases, it is appropriate not to rescind the review in part in these circumstances but, rather, to complete the review with respect to Baosteel and

[2] *See Antidumping or Countervailing Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 76 FR 67413 (November 1, 2011).

[3] *See* Letter from Petitioner to the Department of Commerce, Re: Request for Administrative Review, dated November 30, 2011.

[4] *See Initiation Notice.*

[5] *See* Memorandum from Patrick O'Connor to the File, Re: Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China, dated January 3, 2012.

[6] *See* Letter from Petitioner to the Department of Commerce, Re: Comments on CBP Query (''Petitioner's CBP Comments''), dated January 9, 2012.

[7] *See* Letter from Baosteel to the Department of Commerce, Re: No Sales Certification, dated January 24, 2012.

[8] *See* Letter from Hunan Valin to the Department of Commerce, Re: No Shipment Letter, dated February 28, 2012.

[9] *See* Instructions from the Department to CBP, Re: No Shipments Inquiry for Certain Cut to Length Carbon Steel Plate from the People's Republic of China Exported by Baoshan or Hunan Valin XiangTan Iron & Steel Co., Ltd., Message number 2081304, dated March 21, 2012 (''CBP Inquiry'') available at the following URL: *http://addcvd.cbp.gov/index.asp?ac=home.*

[10] *See* CBP Inquiry.

[11] *See* Petitioner's CBP Comments.

[12] *See ibid.*

[13] *See, e.g., Honey from the People's Republic of China: Final Results and Rescission of Antidumping New Shipper Reviews,* 76 FR 4289 (January 25, 2011), and accompanying Issues and Decision Memorandum at Comment 3.

Hunan Valin and issue appropriate instructions to CBP based on the final results of the review. *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (Oct. 24, 2011) and the ''Assessment Rates'' section, below.

Separate Rates

In the *Initiation Notice,* we informed entities of the opportunity to request a separate rate. In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all entities within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

Entities that wanted to be considered for a separate rate in this review were required to timely file a separate rate application or a separate rate certification to demonstrate eligibility for a separate rate. Separate rate applications and separate rate certifications were due to the Department within 60 calendar days of the publication of the *Initiation Notice.* Neither Anshan nor Liaoning filed separate rate applications or certifications with the Department. Therefore, neither entity has established its eligibility for separate rate status. Thus, we are continuing to treat Anshan and Liaoning as part of the PRC-wide entity. The PRC-wide rate is 128.59 percent.

Comments

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.[14] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. The Department intends to instruct CBP to liquidate entries of subject merchandise from Anshan and Liaoning at the PRC-wide rate of 128.59 percent. Additionally, pursuant to a recently announced refinement to its assessment practice in NME cases, if the Department continues to determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate. For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (Oct. 24, 2011).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Baosteel and Hunan Valin, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to these companies in the most recently completed review of the companies; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, including Anshan and Liaoning, the cash deposit rate will be the PRC-wide rate of 128.59 percent;[15] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: August 1, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–19577 Filed 8–8–12; 8:45 am]

BILLING CODE 3510–DS–P

[14] *See* 19 CFR 351.310(c).

[15] For an explanation of the calculation of the PRC-wide rate, *see Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China,* 62 FR 61964, 61965 (November 20, 1997).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–825, A–533–810, A–588–833, A–469–805]

Stainless Steel Bar From Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Orders

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

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty orders.

DATES: *Effective Date:* August 9, 2012.

FOR FURTHER INFORMATION: Bryan Hansen or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3683 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2011, the Department initiated the third sunset reviews of the antidumping duty orders [1] on stainless steel bar from Brazil, India, Japan, and Spain pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year (''Sunset'') Review,* 76 FR 74775 (December 1, 2011).

As a result of these sunset reviews, the Department determined that revocation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail should the orders be revoked. *See Stainless Steel Bar from Brazil, India, Japan, and Spain: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders,* 77 FR 16207 (March 20, 2012).

On August 1, 2012, pursuant to section 752(a) of the Act, the ITC published its determination that revocation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Stainless Steel Bar From Brazil, India, Japan, and Spain; Determination,* 77 FR 45653 (August 1, 2012), and ITC Publication 4341 (July 2012) entitled *Stainless Steel Bar from Brazil, India, Japan, and Spain Investigation Nos. 731–TA–678, 679, 681, and 682 (Third Review).*

Scope of the Orders

Imports covered by the orders are shipments of stainless steel bar. Stainless steel bar means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bars subject to the orders is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, and 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the orders is dispositive.

Continuation of the Orders

As a result of the determinations by the Department and the ITC that revocation of these antidumping duty orders would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year reviews of these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

These five-year sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: August 2, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–19574 Filed 8–8–12; 8:45 am]

BILLING CODE 3510–DS–P

[1] *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan,* 60 FR 9661 (February 21, 1995) and *Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar from Spain,* 60 FR 11656 (March 2, 1995).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order

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

SUMMARY: The Department of Commerce (''the Department'') continues to determine that certain small diameter graphite electrodes (''SDGE'') are being exported from the United Kingdom (''U.K.'') to the United States by UK Carbon and Graphite Co., Ltd. (''UKCG'') in circumvention of the antidumping duty order on SDGE from the People's Republic of China (''PRC''),[1] as provided in section 781(b) of the Tariff Act of 1930, as amended (''the Act'').

DATES: *Effective Date:* August 9, 2012.

FOR FURTHER INFORMATION CONTACT: Brendan Quinn, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5848.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2012, the Department published in the **Federal Register** the affirmative preliminary determination that certain SDGE finished by UKCG from PRC-produced artificial graphite

[1] *See Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 8775 (February 26, 2009) (''*SDGE Order*'').

rod/unfinished SDGE component[2] inputs are exported to the United States in circumvention of the antidumping duty order on SDGE from the PRC, as provided in section 781(b) of the Act.[3] Pursuant to section 781(e) of the Act, on June 8, 2012, the Department notified the U.S. International Trade Commission (''ITC'') of its affirmative preliminary determination of circumvention, in accordance with section 781(e) of the Act, and informed the ITC of its ability to request consultation with the Department regarding the possible inclusion of the products in question within the *SDGE Order* pursuant to section 781(e)(2) of the Act. On July 6, 2012, the ITC informed the Department that consultations pursuant to section 781(e)(2) of the Act were not necessary.

On June 20, 2012, UKCG, SGL Carbon LLC and Superior Graphite Co. (''Petitioners''), and the Government of the United Kingdom filed case briefs. On June 27, 2012, Petitioners and UKCG filed rebuttal briefs. On July 10, 2012, the Department held a public hearing, based on a timely filed request by UKCG.[4]

Scope of the Antidumping Duty Order

The merchandise covered by this order includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches) or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. The merchandise covered by this order also includes graphite pin joining systems for small diameter graphite electrodes, of any length, whether or not finished, of a kind used in furnaces, and whether or not the graphite pin joining system is attached to, sold with, or sold separately from, the small diameter graphite electrode. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes are most commonly used in primary melting, ladle metallurgy, and specialty furnace applications in industries including foundries, smelters, and steel refining operations. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes that are subject to this order are currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 8545.11.0000[5] and 3801.10.[6] The HTSUS number is provided for convenience and customs purposes, but the written description of the scope is dispositive.

Scope of the Anticircumvention Inquiry

The products covered by this inquiry are small diameter graphite electrodes produced by UKCG from PRC-manufactured artificial/synthetic graphite forms, of a size and shape (*e.g.,* blanks, rods, cylinders, billets, blocks, *etc.*) which requires additional machining processes (*i.e.,* tooling and shaping) to become a finished SDGE (or graphite pin joining system).[7] The SDGE products in question are finished graphite electrodes manufactured by UKCG from PRC-originated artificial graphite rod/unfinished SDGE components. While UKCG argues that the SDGE it produces and exports to the United States are of U.K. origin under U.K. law, the focus and intent of this inquiry is to determine whether artificial/synthetic graphite forms (1) Manufactured in the PRC; (2) exported to the United Kingdom for processing/machining (finishing); and (3) re-exported to the United States as U.K. origin merchandise constitute circumvention of the *SDGE Order* under 781(b) of the Act.

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this proceeding are addressed in the Decision Memorandum and hereby adopted by this notice. A list of the issues which the parties raised and to which the Department responds in the Decision Memorandum is attached to this notice as Appendix I. The Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Affirmative Final Determination of Circumvention

For the final determination, we continue to rely on the statutory criteria that we considered in making our *Preliminary Determination.*[8] Based on our review of the record evidence and our analysis of the comments received, the Department continues to find that certain SDGE finished by UKCG from PRC-produced artificial graphite rod/unfinished SDGE component inputs are exported to the United States in circumvention of the antidumping duty order on SDGE from the PRC. For a complete discussion of the Department's analysis, *see* the accompanying Decision Memorandum.

Summary of Analysis of Statutory Provisions

(A) Whether Merchandise Imported Into The United States Is of the Same Class Or Kind As Merchandise That Is Subject To The SDGE Order

As noted in the *Preliminary Determination,* the finished products, as sold by UKCG to the United States, are identical to those covered by the *SDGE Order.*[9] No interested party to this

[2] According to Petitioners, the unfinished merchandise in question is defined in UKCG's submissions as, *e.g.,* ''graphite electrodes,'' ''rods,'' ''graphite billets,'' graphite shapes,'' ''synthetic graphite electrode rod,'' and ''re-machined graphite electrode.'' Petitioners characterize these inputs as ''unfinished SDGE,'' whereas UKCG refers to them as ''blanks'' or ''artificial graphite.'' For customs purposes, these materials are, generally, classified under Harmonized Tariff Schedule (''HTS'') sub-heading 3801.10.00, defined as ''Artificial Graphite; Colloidal or Semi-Colloidal Graphite; Preparations Based on Graphite or Other Carbon in the Form of Pastes, Blocks, Plates or Other Semi-Finished Goods.'' For ease of reference, these materials are referred to as ''unfinished SDGE components'' or ''artificial graphite rods'' throughout this notice.

[3] *See Small Diameter Graphite Electrodes from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination,* 77 FR 33405 (June 6, 2012) (''*Preliminary Determination*'').

[4] *See* transcript entitled, ''Public Hearing; In the Matter of: the Anti-circumvention Inquiry of the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People's Republic of China (A–570–929) (UKCG),'' dated July 10, 2012 (''Hearing Transcript'').

[5] The scope described in the *SDGE Order* refers to the HTSUS subheading 8545.11.0000. We note that, starting in 2010, imports of SDGEs are classified in the HTSUS under subheading 8545.11.0010 and imports of large diameter graphite electrodes are classified under subheading 8545.11.0020.

[6] HTSUS subheading 3801.10 is added to the scope of the order based on a determination in the instant anticircumvention proceeding. *See Summary of Analysis of Statutory Provisions* section, below, and the accompanying Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, Re: ''Anticircumvention Inquiry Regarding the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People's Republic of China: Issues and Decision Memorandum for the Final Determination of the Anticircumvention Inquiry'' (''Decision Memorandum''), dated July 31, 2012 at Comment 6.

[7] As noted above, these materials are referred to as ''unfinished SDGE components'' or ''artificial graphite rods'' throughout this notice.

[8] *See Preliminary Determination,* 77 FR at 33409.

[9] *See Preliminary Determination,* 77 FR at 33410.

proceeding has contested this fact during the course of the inquiry. As such, we continue to find that the finished SDGE products exported to the United States by UKCG are of the same class or kind as other merchandise that is subject to the *SDGE Order.*

(B) Whether, Before Importation Into The United States, Such Imported Merchandise Is Completed or Assembled In A Third Country From Merchandise Which Is Subject To The Order or Produced In The Foreign Country That Is Subject To The Order

Pursuant to section 781(b)(1)(B) of the Act, and consistent with our findings in the *Preliminary Determination,* we continue to find that the totality of the sourcing/procurement information and corresponding sales documentation on record clearly demonstrate that the inputs in question are produced in the foreign country that is subject to the *SDGE Order.*[10]

Additionally, as discussed at length in the accompanying Decision Memorandum at Comment 1, the Department has analyzed the arguments with respect to the in-scope nature of UKCG's artificial graphite rod/unfinished SDGE component inputs and continues to find that the ''rod'' inputs constitute unfinished SDGE explicitly included within the scope of the *SDGE Order.*[11] As a result, the Department finds that certain subject merchandise may be properly categorized under HTSUS subheading 3801.10. Because HTSUS numbers are included in the scope language for convenience and customs purposes, we are adding this HTS subheading to the scope language of the *SDGE Order* to aid U.S. Customs and Border Protection (''CBP'') by clarifying that products categorized under the HTSUS 3801.10 category, as imported, which otherwise fit the narrative description of unfinished products covered by the *SDGE Order,* should be considered merchandise subject to the order.[12]

(C) Whether the Process of Assembly or Completion in the Third Country is Minor or Insignificant

Pursuant to section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act provides the criteria for determining whether the process of assembly or completion is minor or insignificant. These criteria are:

781(b)(2)(A): The level of investment in the third country;

781(b)(2)(B): The level of research and development (''R&D'') in the third country;

781(b)(2)(C): The nature of the production process in the third country;

781(b)(2)(D): The extent of the production facilities in the third country; and

781(b)(2)(E): Whether the value of the processing performed in the third country represents a small proportion of the value of the merchandise imported into the United States.

The SAA explains that no single factor listed in section 781(b)(2) of the Act will be controlling.[13] Accordingly, it is the Department's practice to evaluate each of the factors as they exist in the United States or foreign country depending on the particular anticircumvention inquiry.[14] In this anticircumvention inquiry, based on the record, we have considered and evaluated each statutory criterion and all factors in determining whether the process of converting the PRC-sourced artificial graphite rod/unfinished SDGE component inputs in the U.K. was minor or insignificant, in accordance with section 781(b)(2) of the Act, consistent with our analysis in prior anticircumvention inquiries.[15]

Analysis of 781(b)(2)(A),(B),(C), & (D): The Levels of Investment, R&D, The Nature of Production Processes, and Extent of Production Facilities in the United Kingdom

Pursuant to sections 781(b)(2)(A)–(D) of the Act, the Department continues to find, consistent with our *Preliminary Determination,* that the information on record with respect to UKCG's investment, R&D, production processes and production facilities continues to support the conclusion that the process of assembly or completion occurring in the United Kingdom is minor or insignificant in comparison to the totality of the production of subject merchandise.

Analysis of 781(b)(2)(E): Whether the Value of the Processing Performed in the United Kingdom Represents a Small Proportion of the Value of the Merchandise Imported Into the United States

For the *Preliminary Determination,* the Department utilized a quantitative analysis to determine the proportion of UKCG's further processing value by comparing UKCG's further processing costs to the actual value of the merchandise exported to the United States during the period of review (*i.e.,* U.S. price) and preliminarily found that the UKCG's value-added comprised only a small proportion of the total export value. The Department concluded that this quantitative finding lent additional support to the qualitative finding and that, pursuant to section 781(b)(2)(E) of the Act, the value of UKCG's processing represents a small proportion of the value of the merchandise sold in the United States.[16]

For this final determination, the Department agrees with UKCG that the methodology we used for the analysis under section 781(b)(2)(E) of the Act for *Preliminary Determination* warrants modification, but only to the extent that our measurement of the value-added in the United Kingdom did not properly account for profit (as well as selling, general, and administrative (''SG&A'') expenses and interest expenses) in the numerator of the calculation. We find that the inclusion of an amount for SG&A, interest, and profit would help to better reflect the value-added to the finished product in the United Kingdom. However, we do not agree with UKCG's suggested methodology. Instead, we have amended the *Preliminary Determination* calculation so that UKCG's profit margin and SG&A

[10] *See id.,* 77 FR at 33410–11. *See also* Memorandum from the Department entitled, ''Anti-Circumvention Inquiry Regarding the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Determination Analysis Memorandum of U.K. Carbon and Graphite Co., Ltd.,'' dated May 30, 2012 (''Preliminary Analysis Memorandum'') at 5–8 and Attachment II.

[11] *See* Decision Memorandum at Comment 1.

[12] *See* Decision Memorandum at Comment 6.

[13] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. 1 (1994) (''SAA'') at 893.

[14] *See Certain Tissue Paper Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 73 FR 57591 (October 3, 2008) at 57592.

[15] *See, e.g., Anticircumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta From Italy: Affirmative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders,* 68 FR 46571 (August 6, 2003) (''*Pasta Circumvention Prelim*''), unchanged in *Anticircumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders,* 68 FR 54888 (September 19, 2003) (''*Pasta Circumvention Final*''); and *Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom; Negative Final Determination of Circumvention of Antidumping and Countervailing Duty Orders,* 64 FR 40336, 40347–48 (July 26, 1999) (explaining that Congress has directed the Department to focus more on the nature of the production process and less on the difference in value between the subject merchandise and the imported parts or components and that any attempt to establish a numerical standard would be contrary to the intent of Congress).

[16] *See Preliminary Determination* 77 FR at 33413–15. *See also* Preliminary Analysis Memorandum at 16–18 and Attachment VI.

and interest ratios are added to the reported further manufacturing cost.[17] While the revised value-added figure increases the value-added figure used in the *Preliminary Determination,* the Department finds that this figure still represents a small proportion of the overall sales value as exported to the United States. As a result, we continue to find that this criterion supports finding that the process of completion in the UK is minor.[18]

Overall Analysis of Section 781(b)(1)(C) of the Act (i.e., Sections 781(b)(2)(A)–(E) of the Act)

As discussed above and in the *Preliminary Determination,* it is clear from the legislative history that an analysis of possible circumvention should not be based solely on a quantitative analysis, but rather should examine the value added in qualitative terms as well.[19] The SAA also explains that no single factor listed in section 781(b)(2) of the Act will be controlling. Accordingly, it is the Department's practice to evaluate each of the factors as they exist in the United States or foreign country depending on the particular circumvention scenario. Therefore, the importance of any one of the factors listed under section 781(b)(2) of the Act can vary from case to case depending on the particular circumstances unique to each circumvention inquiry.

In this anticircumvention inquiry, we based our analysis on both qualitative and quantitative factors in determining whether the process of finishing the SDGE in the United Kingdom was minor or insignificant, in accordance with the criteria of section 781(b)(2) of the Act. This approach is consistent with our analysis in prior circumvention inquiries.[20] Based on the above analysis, we determine that the process of finishing performed by UKCG in the United Kingdom is minor or insignificant primarily because we determine that the nature of the processing is minor when compared to the production of SDGE from raw materials and the value of the processing performed by UKCG in the United Kingdom represents a small proportion of the value of the merchandise imported into the United States. This qualitative determination is based on our analysis with respect to sections 781(b)(2)(A),(B),(C), and (D) of the Act (as laid out in the *Preliminary Determination* and summarized above), as well as our finding that the input material itself constitutes merchandise subject to the SDGE Order. As stated in the *Preliminary Determination,* ''while the Department believes that this qualitative analysis is sufficient to determine whether the value of processing in the third country constitutes a small portion of the value of the merchandise exported to the United States, the Department has obtained the information necessary to {quantitatively} evaluate the proportion of UKCG's processing.'' [21] Thus, the quantitative analysis in the *Preliminary Determination* was issued in support of the qualitative finding based on the availability of the relevant data, but the Department plainly noted that the qualitative finding of relatively insignificant value added was, by itself, sufficient to fulfill the analysis required pursuant to section 781(b)(2)(E) of the Act. Although the Department has amended the methodology used to conduct this quantitative analysis for the instant final determination, as noted above, we find that the resultant values continue to indicate that the value added in the United Kingdom represents a small proportion of the overall sales value as exported to the United States. Further, we continue to find that the qualitative determination is itself sufficient and determinative to address the value-added criteria under the statute and that the corresponding quantitative analysis supports the Department's qualitative determination on this issue.[22]

(D) Whether the Value of the Merchandise Produced in the Foreign Country to Which the Order Applies Is a Significant Portion of the Total Value of the Merchandise Exported to the United States

Because key elements of the Department's analysis under section 781(b)(1)(D) of the Act necessitate obtaining a value for an NME input, the Department determined that an analysis of UKCG's input costs falls under the purview of the Department's NME methodology and, therefore, utilized a surrogate value (''SV'') to value UKCG's PRC-sourced artificial graphite rod/unfinished SDGE component inputs, consistent with both section 773(c)(1) of the Act as well as the Department's past practice.[23] As a result, the Department determined that the appropriate calculation required by section 781(b)(1)(D) of the Act expresses the SV for the artificial graphite rod/unfinished SDGE component inputs in question as a percentage of UKCG's reported total sales value and found that the PRC-produced merchandise represents a significant percentage of the sales value of UKCG's U.S. exports of finished merchandise.[24] A full discussion of the propriety of utilizing the Department's SV methodology with respect to the valuation of UKCG's inputs is provided in Comment 2 of the accompanying Decision Memorandum.

Other Factors To Consider

In making a determination whether to include merchandise assembled or completed in a foreign country within an order, section 781(b)(3) of the Act instructs the Department to take into account such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether affiliation exists between the manufacturer or exporter of the merchandise in the country subject to the order and the person who uses the merchandise to assemble or complete in the third country the merchandise that is exported to the United States; and (C) whether imports into the third country of the merchandise described in section 781(b)(1)(B) of the Act have increased since the initiation of the original investigation. In the *Preliminary Determination* the Department found that:

(A) Record information demonstrated that PRC exports of SDGE to the United States have decreased significantly whereas U.K. exports of SDGE to the United States, UKCG's exports of SDGE to the United States, and UKCG's sourcing of relevant inputs from the PRC, have increased since the initiation of the less-than-fair-value (''LTFV'') investigation. These patterns of trade

[17] *See* Memorandum from the Department entitled, ''Anticircumvention Inquiry Regarding the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People's Republic of China: Final Determination Analysis Memorandum of U.K. Carbon and Graphite Co., Ltd.,'' dated July 31, 2012 (''Final Analysis Memorandum'').

[18] Information about the value-added figure is business proprietary. *See* Final Analysis Memorandum for exact values. *See also* ''Overall Analysis'' section, below, and Decision Memorandum at Comment 3.

[19] *See Preliminary Determination* 77 FR at 33413, citing to SAA at 893 (1994).

[20] *See, e.g., Pasta Circumvention Prelim* 68 FR at 46574 (unchanged in *Pasta Circumvention Final*).

[21] *See Preliminary Determination* at 33413.

[22] *See* Decision Memorandum at Comment 3. *See also* Final Analysis Memorandum.

[23] *See Preliminary Determination* 77 FR at 33407–09, citing to, *e.g., Steel Wire Garment Hangers from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination,* 76 FR 27007 (May 10, 2011) (''*Hangers Anticircumvention Prelim*'') at 27008, unchanged in *Steel Wire Garment Hangers From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 76 FR 66895 (October 28, 2011) (''*Hangers Anticircumvention Final*'').

[24] *See Preliminary Determination* 77 FR at 33415. *See also* Preliminary Analysis Memo for a discussion of the exact values used, as this information is business proprietary.

support a finding that circumvention has occurred.[25]

(B) UKCG is not affiliated with any PRC-producers of artificial graphite rod/unfinished SDGE component inputs.[26]

(C) In addition to the aforementioned increase in UKCG's sourcing of relevant inputs from the PRC, PRC exports of artificial graphite to the United Kingdom have also increased significantly since the initiation of the LTFV investigation.[27]

No party to this proceeding has challenged any of the aforementioned findings since the issuance of the *Preliminary Determination.* The Department continues to find that UKCG is not affiliated with any of its PRC-producers of artificial graphite rod/unfinished SDGE component inputs. However, the totality of the pattern of trade data—which shows an increase with respect to UKCG's importation of artificial graphite rod/unfinished SDGE component inputs from the PRC and exports of finished SDGE to the United States from the United Kingdom, an increase of artificial graphite imports into the United Kingdom on the whole, and a corresponding decrease in finished SDGE exported to the United States from the PRC—supports an affirmative determination of circumvention.

Summary of Statutory Analysis

We find that UKCG has circumvented the *SDGE Order* in accordance with sections 781(b)(1) and (2) of the Act. Pursuant to sections 781(b)(1)(A) and (B) of the Act, we find that the merchandise sold in the United States is identical to merchandise that is subject to the *SDGE Order* and was completed in the United Kingdom from merchandise which is: (a) Covered by the explicit language of the scope of the *SDGE Order,* and (b) produced in the PRC, the country to which the *SDGE Order* applies. Additionally, pursuant to section 781(b)(1)(C) of the Act, we find the process of completion in the United Kingdom to be minor and insignificant based on each facet of the analysis under section 781(b)(2) of the Act. Furthermore, in accordance with section 781(b)(1)(D) of the Act, we find that the value of the merchandise produced in the PRC is a significant portion of the total value of the merchandise exported to the United States. Finally, upon taking into consideration section 781(b)(3) of the Act, our analysis of the pattern of trade, including sourcing, and an affirmative finding of an increase in imports of artificial graphite/unfinished SDGE into the United Kingdom from the PRC since the initiation of the initial LTFV investigation, we conclude that action is appropriate to prevent circumvention of the *SDGE Order* pursuant to 781(b)(1)(E) of the Act. Consequently, our statutory analysis leads us to find that, during the period of time examined, there was circumvention of the *SDGE Order* as a result of UKCG's processing/machining of the PRC-origin artificial graphite/unfinished SDGE components to finished SDGE in the United Kingdom, as discussed above.

Continuation of Suspension of Liquidation

Based on the record evidence, the Department has determined that UKCG is able to provide documentation to its U.S. importers that identifies the input supplier for each SDGE UKCG sold in the United States.[28] As a result, the Department is requiring UKCG and its importers to prepare and maintain certifications regarding the supplier.[29] Additionally, for all merchandise exported by UKCG where the supplier was a PRC-entity, the Department will direct CBP to require cash deposits at the rate established for the PRC supplier if that supplier has its own rate or, alternatively, at the PRC-wide rate of 159.64 percent if the PRC supplier does not have its own rate or if the importer cannot identify the supplier.

The Department continues to find that its preliminary cash deposit instructions are fully consistent with the Department's obligations under section 781(b) of the Act.[30] The Department concludes, pursuant to Section 781(b) of the Act, that SDGE finished by UKCG from PRC-produced inputs covered under the narrative description of the scope of the *SDGE Order,* are being exported to the United States in circumvention of the *SDGE Order,* and that the appropriate means of addressing that circumvention is to collect cash deposits on all merchandise meeting that description. As such, we find it appropriate and consistent with past practice to instruct CBP to suspend liquidation and collect cash deposits on all unliquidated entries of SDGE produced by UKCG from PRC-manufactured unfinished SDGE inputs at the rate applicable to the relevant PRC-manufacturer, including the PRC-wide entity if applicable.[31] In requiring that CBP collect cash deposits on UKCG's exports of SDGE found to be in circumvention of the antidumping order as appropriate, the Department is making no final determination of UKCG's dumping duty liability at this time.[32]

Accordingly, the Department will continue to direct CBP to suspend liquidation and to require a cash deposit of estimated duties at the applicable rate on unliquidated entries of SDGE produced and/or exported by UKCG that were entered, or withdrawn from warehouse, for consumption on or after March 18, 2011, the date of initiation of the anticircumvention inquiry. Where the importer can demonstrate that the primary input material was produced by a company that has a separate rate, CBP will collect that company's cash deposit rate. Where the importer can demonstrate that the SDGE at issue was produced from reclaimed/reconditioned electrode inputs[33] or artificial graphite rod/unfinished SDGE component inputs sourced from a third country producer, CBP should not suspend those entries or collect AD duties on those entries. For all other entries of merchandise exported by UKCG, CBP will require a cash deposit equal to the PRC-wide rate of 159.64 percent.

For all entries of finished SDGE produced from artificial graphite rod/unfinished SDGE component inputs subject to the scope of this anticircumvention proceeding which UKCG believes should be assessed at a rate other than the PRC-wide rate, UKCG is required to furnish its customers/importers with a certification identifying, as appropriate, the manufacturer/exporter of the primary input into the SDGE it processes in the U.K. prior to exportation to the United States. For all entries of SDGE produced from inputs not subject to the scope of

[25] *See Preliminary Determination* 77 FR at 33416–17. *See also* Preliminary Analysis Memorandum at 20–22 and Attachments VII–XII

[26] *See Preliminary Determination* 77 FR at 33417.

[27] *See Preliminary Determination* 77 FR at 33417. *See also* Preliminary Analysis Memorandum at 23 and Attachments VII–XII.

[28] *See Preliminary Determination* 77 FR at 33417–18.

[29] *See id.* 77 FR at 33417–18 and the certifications provided at 77 FR 33419–33420. *See also* Appendices II, III, IV, and V to this notice.

[30] *See* Decision Memorandum at Comment 5.

[31] *See Certain Tissue Paper Products From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 76 FR 47551 (August 5, 2011), and accompanying Issues and Decision Memorandum at Comments 4 and 5. For a full discussion of this issue, *see* the accompanying Decision Memorandum at Comment 5.

[32] *See* Decision Memorandum at Comment 5.

[33] As noted in the *Preliminary Determination* 77 FR at 33418, UKCG purchases broken/cracked or otherwise unusable electrodes from sources in various non-PRC countries, refurbishes them, and re-sells them for use as finished electrodes. The broken, cracked, or otherwise unusable electrode inputs sourced by UKCG are ''reclaimed'' electrodes, whereas the resulting finished product is a ''remanufactured,'' ''remachined,'' or ''reconditioned'' electrode. For ease of reference, these products are referred to as ''reclaimed/reconditioned'' electrodes.

this anticircumvention proceeding (*i.e.,* SDGE produced from reclaimed/reconditioned inputs or inputs produced in a third country), UKCG is required to furnish its customers/importers with a certification identifying the supplier or producer (as appropriate) of the primary input into the SDGE it processes in the U.K. prior to exportation to the United States.[34] Importers are also required to sign and maintain certifications for these types of entries. The certification formats are provided in Appendices II, III, IV, and V to this notice.[35] The importer will be required to retain each certificate for individual entries for the later of: (1) A period of five years from the date of entry or (2) a period of three years after the conclusion of any antidumping duty litigation regarding such entries. It is the importer's responsibility to accurately declare to CBP the appropriate antidumping duty rate (or that no antidumping duty applies) for each entry.

Accordingly, the Department will instruct CBP to: (i) Require cash deposits at the rate established for the PRC supplier if that supplier has its own rate; (ii) require cash deposits at the PRC-wide rate of 159.64 percent if the PRC supplier does not have its own rate or if the importer cannot identify the supplier. If the importer is able to demonstrate through the above-referenced certification process that the source of the artificial graphite rod/unfinished SDGE component inputs used in the production of finished SDGE imported from UKCG is not of PRC-origin or the finished SDGE is produced from reclaimed/reconditioned inputs, then no suspension of liquidation or cash deposit is required.[36] These instructions will apply to entries of SDGE produced and/or exported by UKCG that were entered, or withdrawn from warehouse, for consumption on or after March 18, 2011, the date of initiation of the anticircumvention inquiry. For unliquidated entries made prior to March 18, 2011, UKCG will not be required to provide the above-noted documentation to the importer. The importer will be required to provide the documentation to CBP within the time frame established by CBP. Consistent with past practice the Department has determined that a third-country antidumping duties case number for the United Kingdom is necessary as part of this determination for importers to identify merchandise as subject merchandise, and to ensure that CBP can collect antidumping duties on subject SDGEs that are processed in and exported from the United Kingdom.[37]

Notification to Interested Parties

This notice serves as the only reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This final affirmative circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225(h).

Dated: July 31, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Discussion of the Issues

Comment 1: Whether ''Rods'' Are Covered Under the Scope of the Order
Comment 2: Use of Ukrainian Surrogate Values To Value Artificial Graphite Rod/Unfinished SDGE Component Inputs
Comment 3: Value-Added Methodology
Comment 4: Whether To Include Reconditioned Products in the Scope of the Anticircumvention Inquiry
Comment 5: Cash Deposit and Assessment of AD Duties
Comment 6: Inclusion of HTSUS Subheading 3801.10 in the Scope of the Order
Comment 7: Clarification That Graphitization Confers Country of Origin

Appendix II

Certification of UK Carbon and Graphite Co., Ltd. for SDGE Exports Produced From Reclaimed/Reconditioned Electrode Inputs or From Non-Chinese-Origin Artificial Graphite Rod/Unfinished SDGE Component Inputs

I hereby certify that I am an official of UK Carbon and Graphite Co., Ltd. (''UKCG'') and that that the small diameter graphite electrode products processed by UKCG in the United Kingdom into the small diameter graphite electrodes included within this shipment pursuant to Invoice numbers:[38]

- Invoice
- Invoice * * *

were produced from reclaimed/reconditioned electrode inputs or from non Chinese-origin artificial graphite rod/unfinished SDGE component inputs.

By signing this certificate, UKCG also hereby agrees to:

- Maintain sufficient documentation supporting the above statement for all reclaimed/reconditioned electrode inputs or non Chinese-origin artificial graphite rod/unfinished SDGE component inputs used to produce the exported small diameter graphite electrode products.
- Provide such documentation to the importer of the merchandise subject to this certification if required by U.S. Customs and Border Protection (''CBP''). UKCG is required to maintain all such documentation for individual entries until the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.
- Submit to verification by the U.S. Government of the underlying documentation supporting the above statement pursuant to the administration of

[34] *See* Decision Memorandum at Comment 4.

[35] The certification language has been slightly modified from that proposed in the *Preliminary Determination* to reflect the results of this final determination. *See* Decision Memorandum at Comment 4.

[36] The exporter-supplied certification will serve as the initial demonstration supporting the importer's claim regarding which antidumping duty rate (or that no antidumping duty rate) is applicable. However, should CPB determine that further demonstration is warranted, it may seek additional documentation from the importer pursuant to 19 CFR 163.6(a) and other applicable regulations and statutory authority. Under 19 CFR 163.6(a), CBP may require the production of entry records from any party required to maintain such records as defined in 19 CFR 163.2(a). 19 CFR 163.1(a)(2)(vii) defines such records to include any information made or normally kept in the ordinary course of business that pertains to an activity ''required to be undertaken pursuant to the laws or regulations administered by Customs,'' which would include the proper assessment of antidumping duties. As such, for the purpose of demonstrating that a rate other than the PRC-wide rate should be assessed to entries subject to this anticircumvention proceeding, UKCG should be prepared to provide to its importers, where applicable, documentation to substantiate the supplier claim made on the UKCG certification to the importer. Thus, if CBP should determine further demonstration is necessary and request supporting documentation from the importer, UKCG will be responsible for providing to the importer additional documentation pursuant to 19 CFR 163.6(a) to substantiate the certification.

[37] *See, e.g., Laminated Woven Sacks From the People's Republic of China: Final Results of First Antidumping Duty Administrative Review,* 76 FR 14906, 14907 (March 18, 2011) (noting that ''the Department has coordinated with CBP to resolve issues arising from differences between the Department's and CBP's respective country-of-origin classifications and from technical restrictions in CBP's electronic filing systems. As a result, the Department has added several case numbers to the Case Reference file within the Automated Commercial Environment to ensure that requisite entries are and can be properly claimed as scope merchandise.'').

[38] If an individual invoice is representative of merchandise produced from both Chinese-origin artificial graphite rod inputs, as well as non-subject inputs, UKCG shall identify the non-subject merchandise in this certification, and will provide a companion certification identifying the subject merchandise based on the certification provided below in Appendix IV.

an antidumping duty proceeding covering small diameter graphite electrodes from the People's Republic of China.

• Provide this certification to the U.S. customer/importer at the time of shipment.

UKCG acknowledges that failure to submit to verification of the documentation by the U.S. Government may result in immediate revocation of certification rights and under such circumstances the importer of the merchandise will be required to post a cash deposit equal to the PRC-wide entity rate on all entries of small diameter graphite electrode products sourced from UKCG. In addition, if the Department of Commerce (''Commerce'') identifies any misrepresentation or inconsistencies regarding the certifications, UKCG recognizes that the matter may be reported to CBP by Commerce for possible enforcement action.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Appendix III

Certification of U.S. Importer for SDGE Exports Produced From Reclaimed/ Reconditioned Electrode Inputs or From Non-Chinese-Origin Artificial Graphite Rod/ Unfinished SDGE Component Inputs

I hereby certify that I am an official of {insert name of company importing small diameter graphite electrodes (''SDGE'') from UK Carbon and Graphite Co., Ltd. (''UKCG''),} and that, to the best of my knowledge, the SDGE imported under the following entry numbers was produced from either reclaimed/reconditioned electrode inputs or from non Chinese-origin artificial graphite rod/unfinished SDGE component inputs:

• Entry # Date of Entry:

• Entry # Date of Entry: * * *

By signing this certificate, the importer stipulates its understanding that:

• It is the importer's responsibility to accurately declare this entry upon importation to U.S. Customs and Border Protection (''CBP'').

• The importer of the above certified merchandise is required to maintain this certification for individual entries for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

• The importer will be required to produce this certification and the exporter's certification upon the request of CBP.

• The importer may be required to produce additional documentation, sourced from UKCG, to substantiate the supplier claim made in the certification in response to a request from CBP.

• Should further investigation prove this certification to be false, CBP may take appropriate action to penalize the importer. As such, it is the importer's responsibility to provide any documentation from UKCG that may be needed to substantiate the above certified claims.

• The importer is required to complete this certification on the date of entry.

• If the importer is not able to demonstrate that the source of the input used in the production of finished SDGE imported from UKCG is a reclaimed/reconditioned electrode or a non Chinese-origin artificial graphite rod/unfinished SDGE component, the imports are considered subject to the SDGE Order.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Appendix IV

Certification of UK Carbon and Graphite Co., Ltd. for Exports of PRC–Origin SDGE Sourced From PRC–Producers

I hereby certify that I am an official of UK Carbon and Graphite Co., Ltd. (''UKCG'') and that the small diameter graphite electrode (''SDGE'') products processed by UKCG in the United Kingdom into the small diameter graphite electrodes included within this shipment pursuant to Invoice numbers: [39]

• Invoice

• Invoice * * *

were produced from Chinese-origin artificial graphite rod/unfinished SDGE component inputs subject to the antidumping duty order on small diameter graphite electrodes from the People's Republic of China (''PRC'') sourced from ____ (Name of PRC Manufacturer, or if the exporter is other than the manufacturer, the PRC exporter) [40]

By signing this certificate, UKCG also hereby agrees to:

• Maintain sufficient documentation supporting the above statement for all Chinese-origin artificial graphite rod/ unfinished SDGE component inputs used to produce the exported small diameter graphite electrode products.

• Provide such documentation to the importer of the merchandise subject to this certification if required by U.S. Customs and Border Protection (CBP). UKCG is required to maintain all such documentation for individual entries until the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

• Submit to verification by the U.S. Government of the underlying documentation supporting the above statement pursuant to the administration of an antidumping duty proceeding covering small diameter graphite electrodes from the People's Republic of China.

• Provide this certification to the U.S. customer/importer at the time of shipment.

UKCG acknowledges that failure to submit to verification of the documentation by the U.S. government may result in immediate revocation of certification rights and under such circumstances the importer of the merchandise will be required to post a cash deposit equal to the China-wide entity rate on all entries of small diameter graphite electrode products sourced from UKCG. In addition, if the Department of Commerce (''Commerce'') identifies any misrepresentation or inconsistencies regarding the certifications, UKCG recognizes that the matter may be reported to the U.S. Customs and Border Protection by Commerce for possible enforcement action.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Appendix V

Certification of U.S. Importer for PRC SDGE Exports

I hereby certify that I am an official of {insert name of company importing small diameter graphite electrodes (''SDGE'') from UKCG,} and that, to the best of my knowledge, the SDGE imported under the following entry numbers was produced from PRC-origin artificial graphite rod/unfinished SDGE component inputs:

• Entry # Date of Entry:

• Entry # Date of Entry: * * *

By signing this certificate, the importer stipulates its understanding that:

• It is the importer's responsibility to accurately declare this entry upon importation to U.S. Customs and Border Protection (''CBP'') as an entry subject to antidumping duties and to accurately report the cash deposit rate applicable to these imports.

• The importer of the above certified merchandise is required to maintain this certification for individual entries for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

• The importer will be required to produce this certification and UKCG's certification upon the request of CBP.

• The importer may be required to produce additional documentation, sourced from UKCG, to substantiate the supplier claim made in the certification in response to a request from CBP.

• Should further investigation prove this certification to be false, CBP may take appropriate action to penalize the importer. As such, it is the importer's responsibility to provide any documentation from UKCG that may be needed to substantiate the above certified claims.

• The importer is required to complete this certification on the date of entry.

• For entries of SDGEs from UKCG which the importer believes should be assessed at a rate other than the PRC-wide rate, the importer must have a certification from UKCG identifying the supplier of the artificial graphite rod/unfinished SDGE component inputs subject to the antidumping duty order on SDGEs from the PRC.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

[39] If an individual invoice reflects the sale of subject and non-subject merchandise, UKCG shall provide to the customer/importer two certifications (and relevant supporting documentation) identifying the respective subject and non-subject merchandise, as discussed above.

[40] If there is more than one exporter/ manufacturer, identify the exporter/manufacturer with each product from each invoice.

[FR Doc. 2012–19578 Filed 8–8–12; 8:45 a.m.]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC146

Caribbean Fishery Management Council; Public Meetings; Correction

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

ACTION: Notice of public meeting addendum.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Scientific and Statistical Committee (SSC) will hold meetings.

DATES: The Council meeting will be held on August 28–29, 2012. The Council will convene on Tuesday, August 28, 2012 from 9 a.m. to 5 p.m., and will reconvene on Wednesday, August 29, 2012, from 9 a.m. to 5 p.m. The SSC will meet on August 27, 2012 from 9 a.m. to 5 p.m., and will reconvene on Tuesday, August 28, 2012, from 9 a.m. until noon.

ADDRESSES: The meetings will be held at the El Conquistador Hotel, #1000 El Conquistador Avenue, Fajardo, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on August 3, 2012 (77 FR 46409). The meeting notice is being re-published in its entirety due to an SSC meeting being added on Tuesday, August 27 and Wednesday, August 28, 2012. Additional items have been included in the regular Council meeting agenda also.

The SSC will hold a meeting to discuss the following agenda item:

August 27, 2012, 9 a.m. to 5 p.m. and August 28, 2012, 9 a.m. Until Noon

- To Prepare an Outline and Draft Five-Year Research Plan for the Caribbean Fishery Management Council.

The Council will hold its 143rd regular Council Meeting to discuss the items contained in the following agenda:

August 28, 2012—9 a.m. to 5 p.m.

- Call to Order
- Election of Officers
- Adoption of Agenda
- Consideration of the 142nd Council Meeting Verbatim Transcriptions
- Executive Director's Report
- Report from Public Hearings and Scoping Meetings
  —ACLs/AMs Seagrassess
  —White Paper FMPs by Areas
  —Regular Amendment on Parrotfish Trips, Size Limits, and Trap Escape Vents-Options Paper
- Report by the Chairperson of the Outreach and Education Advisory Panel—Dr. Alida Ortíz Public Comment Period—(5) Five-Minute Presentations

August 29, 2012, 9 a.m.–5 p.m.

- Trap Reduction Project Report Update
- Five Year Research Plan—Barbara Kojis
- Queen Conch Compatible Regulations St. Croix and EEZ
- Calendar vs. Fishing Year Issues
- Enforcement Reports
  —Puerto Rico—DNER
  —U.S. Virgin Islands—DPNR
  —NOAA/NMFS
  —U.S. Coast Guard
- Administrative Committee Recommendations (July 31st, 2012 Meeting)
- Final Action on the following proposals:

1. Proposal from the St. Thomas Fishermen's Association and the St. Croix Fishermen's Association, entitled ''Tagging Project of Spiny Lobsters to Obtain Better Growth Parameters for Assessment.''

2. Proposal by Dr. M. Scharer, Dr. R. Appeldoorn, and Dr. R. Nemeth, entitled ''Nassau Grouper Epinephelus striatus Fish Spawning Aggregation Research.''

- Consideration and Review on the following proposal:

1. Proposal from the St. Croix Commercial Fisherman's Association, Anthony Iarocci, CFMC Consultant, entitled ''Spiny Lobster Data Collection Pilot Project of the US Virgin Islands and Puerto Rico.''

- Meetings Attended by Council Members and Staff
- Public Comment Period (5-Minute Presentations)
- Other Business
- Next Council Meeting

The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. To further accommodate discussion and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice.

The meetings are open to the public, and will be conducted in English. Simultaneous Interpretation (English/Spanish) will be provided. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be subjects for formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice, and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–1920, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: August 3, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–19472 Filed 8–8–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC031

Takes of Marine Mammals Incidental to Specified Activities; Construction and Race Event Activities for the 34th America's Cup in San Francisco Bay, CA

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 America's Cup Event Authority (ACEA) and the Port of San Francisco (Port) to incidentally harass, by Level B harassment only, several species of

marine mammals during construction activities associated with the 34th America's Cup in San Francisco Bay.

DATES: This authorization is effective for a period of 1 year from the date of issuance.

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**). Associated documents prepared pursuant to the National Environmental Policy Act (NEPA) 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 published in the **Federal Register** to provide public notice and initiate a 30-day comment period.

Authorization for incidental taking 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 United States can apply for an authorization to incidentally take small numbers of marine mammals by Level B harassment as defined below. 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. If authorized, an IHA may be effective for a maximum of one year from date of issuance.

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 adequate and complete application on April 27, 2012, from ACEA and the Port requesting issuance of an IHA for the taking, by Level B harassment only, of marine mammals incidental to activities conducted in support of the 34th America's Cup (AC34) in San Francisco, California. A series of yacht races will be held in San Francisco Bay during 2012–13. The specified activities include the installation of temporary dock facilities along with certain permanent improvements at the venue sites to accommodate the AC34 events; these activities will require pile driving and will be conducted in advance of AC34 events. Components of the AC34 race events that may result in harassment of marine mammals include helicopter operations and fireworks displays. Authorization of incidental take was requested for the harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), harbor porpoise (*Phocoena phocoena*), and elephant seal (*Mirounga angustirostris*). Based on the best available information, we have authorized the applicants to incidentally harass up to 14,063 California sea lions, 686 harbor seals, 63 harbor porpoises, and two northern elephant seals during the IHA, which is valid for one year from the date of issuance. Any activities that may result in incidental harassment of marine mammals that fall outside of the 1-year period of validity will require subsequent authorization.

Description of the Specified Activity

The America's Cup (AC34) is a series of sailing regattas and match races to be held in San Francisco Bay (the Bay) in 2012–13. These were described in greater detail in the **Federal Register** notice of proposed authorization (hereafter, the FR notice; 77 FR 32573; June 1, 2012) and will not be repeated here. A number of project sites, or venues, which will provide all aspects of AC34 facilities and services are planned to accommodate these events. Construction of these venues will require pile driving for the installation of temporary floating docks as well as for permanent improvements to existing waterfront facilities. Helicopters will be used for AC34 2012 and 2013 races to serve broadcasting and media operations. Commercial-grade fireworks displays are planned at the opening and closing ceremonies for the 2013 America's Cup events only. The action area (i.e., San Francisco Bay) was described in greater detail in the FR notice.

Temporary floating docks will be installed utilizing 18-in steel pipe piles; all piles for floating docks will be installed via vibratory pile driver only. Floating docks will be located at Piers 80, 30–32, 14 North, 9, 23 North and South, 27 South, 29 and adjacent to Marina Green (please see Figure 1 of the AC34 application for location overview and Figures 3–9 for detailed location diagrams). The floating docks will be installed at various stages starting in late summer of 2012 and extending through the spring of 2013. A total of 244 18-in steel pipe piles will be installed for temporary floating docks; project engineers estimate that a maximum of eight piles may be installed per day. Accounting for unforeseen delays, installation of floating docks is expected to require approximately 2 weeks at each location (with varying amounts of actual pile driving days), although the time may vary depending on number of piles to be driven and any unforeseen difficulties. In addition, repairs and improvements are planned for Pier 19 (see Figure 8 of the application for a site plan). Pier 19 repairs will require driving of 224 12-in wood piles; these will be installed via impact hammer with an estimated maximum production rate of eight piles per day. Pier 19 repairs are expected to require

approximately 28 days over the course of 4 months. Table 1 details the extent and location of pile driving activity.

Location	Number of piles
Pier 80	26
Pier 32 South	27
Pier 14 North	44
Pier 9	15
Pier 23 North	21
Pier 23 South	16
Pier 27	55
Pier 29 East	5
Pier 29 North	21
Marina Green offshore	14
Total piles for vibratory installation	244
Pier 19*	224

*Pier 19 repairs will require impact driving of 12-in wood piles. All other piles will be 18-in steel piles installed with vibratory driver.

Depending on the location and logistics, piles will likely be installed from existing deck structures using land-based pile driving equipment or from a barge. Impact pile driving will not occur concurrently with any other known project using an impact hammer; however, there will be no restriction on concurrent vibratory driving. Vibratory pile driving for installation of floating docks is planned for late summer of 2012 and approximately March through June of 2013, while installation of 12-inch wood piles at Pier 19 is planned for sometime between August and December 2012.

A brief overview of plans for the actual race events was provided in the FR notice. Because we do not plan to authorize take of marine mammals incidental to these activities, they were not described in detail. However, several commenters raised concerns relating to the potential for take incidental to race activities, whether from direct vessel strike or from behavioral harassment resulting from the presence of increased numbers of vessels associated with race activities. These concerns are addressed in greater detail later in this document (see ''Comments and Responses'').

Helicopters will be used for AC34 2012 and 2013 races to serve broadcasting and media operations. The helicopters following each race will fly between 100 and 400 feet above sea level (asl; 30–122 m) within the race area. The coordination of the helicopters during race events will be such that one or two will stay above 400 ft asl and other helicopters will fly between 100–400 ft asl to more closely cover the racing action. To protect sensitive avian species, the project sponsors will restrict helicopter operations such that they will avoid the air space within at least 1,000 ft (vertically and horizontally; 305 m) around Alcatraz Island and Crissy Beach Wildlife Protection Area; these measures will also mitigate any possibility of incidental harassment of marine mammals at these locations. During flight operations, helicopters will minimize impacts to pinnipeds at Pier 39 by avoiding low flying (less than 100 ft asl). Final details of helicopter operations will be provided in the Water and Air Traffic Plan that will be developed and implemented for AC34 prior to any race and/or helicopter events.

Commercial grade fireworks displays are planned at the opening and closing ceremonies for the 2013 AC events only; therefore, it is likely that no fireworks events will occur during the 1-year period of validity for this IHA. However, this potentially harassment-inducing activity is precautionarily considered here to provide the event organizers with flexibility in scheduling such events. The location of the fireworks barge will be near Piers 27–29 and up to four fireworks displays will occur lasting 30–45 minutes each. It is anticipated that aerial shells will be launched to altitudes of 200 to 1,000 ft (61–305 m) where they will explode and ignite internal burst charges and incendiary chemicals. Most of the incendiary elements and shell casings burn up in the atmosphere; however, portions of the casings and some internal structural components and chemical residue fall back to the ground or water, depending on prevailing winds. The project sponsors have coordinated and will continue to coordinate with the USCG regarding limitations on the location, frequency and duration of the fireworks to minimize potential environmental impacts. Any fireworks displays will be subject to approval by the USCG through the USCG Marine Event Permit process.

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 32573; June 1, 2012). In-water construction activities associated with the project will include impact and vibratory pile driving. The sounds produced by these activities are considered pulsed and non-pulsed (and specifically continuous), respectively. The distinction between these two general sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (e.g., Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

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 vibratory pile driving) and 160 dB rms for pulsed sound (produced by impact pile driving), 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).

The underwater acoustic environment consists of ambient sound, defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The ambient underwater sound level of a region is defined by the total acoustical energy being generated by known and unknown sources, including sounds from both natural and anthropogenic sources. The sum of the various natural and anthropogenic sound sources at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and industrial or other anthropogenic activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, the ambient sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). Ambient underwater sound levels are comprised of multiple sources, including physical (e.g., waves, earthquakes, ice, atmospheric sound), biological (e.g., sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (e.g., vessels, dredging, aircraft,

construction). Because the San Francisco waterfront is a heavily used urban and industrial environment, anthropogenic sound creates a typically loud environment. In San Francisco Bay, the average broadband ambient underwater sound levels were measured at 133 dB re 1μPa in the Oakland Outer Harbor (Strategic Environmental Consulting, Inc., 2004).

There is a general lack of information regarding the sound source levels for driving of timber piles in the available literature. However, underwater sound produced by impact driving of 12-in timber piles with use of cushion blocks, as is planned for the specified activity, has been measured in the Bay area at 170 dB rms at 10 m (Caltrans, 2007). Caltrans (2007) has also measured SPLs associated with vibratory pile driving in the Bay area; vibratory driving for 12-in steel pipe piles was measured at 155 dB rms and for 36-in steel pipe piles at 170 dB rms, both at 10 m distance. Averaging these values provides a conservative estimate of 162.5 dB rms for 18-in piles, as will be used in the specified activities. Using practical spreading loss—4.5 dB reduction in level for each doubling of distance from the source—to approximate site-specific sound propagation characteristics, these data provide estimated source levels of 185 dB rms for impact driving of 12-in timber piles with use of a cushion block and 177.5 dB rms for vibratory driving of 18-in steel pipe piles. On the basis of these estimated source levels, the estimated distances to various thresholds (presented for reference only) are presented in Table 2. Impact pile driving activity is not likely to produce SPLs of sufficient intensity to potentially cause injury to pinnipeds (i.e., 190 dB rms), and SPLs produced by vibratory pile driving will likely be low enough to preclude the potential for injury to any marine mammal (i.e., below 180 dB rms).

TABLE 2—ESTIMATED DISTANCES TO UNDERWATER MARINE MAMMAL SOUND THRESHOLDS DURING PILE DRIVING

Threshold	Distance (m)
Impact driving, pinniped injury (190 dB)	n/a
Impact driving, cetacean injury (180 dB)	2.2
Impact driving, disturbance (160 dB)	46
Impact driving, airborne disturbance (100 dB)	5.3
Impact driving, airborne disturbance (90 dB)	17
Vibratory driving, pinniped injury (190 dB)	n/a
Vibratory driving, cetacean injury (180 dB)	n/a
Vibratory driving, disturbance (133 dB [1])	926
Vibratory driving, airborne disturbance (100 dB)	6.8
Vibratory driving, airborne disturbance (90 dB)	22

* Distance to disturbance zone calculated on basis of ambient sound measurement of 133 dB rms in vicinity of San Francisco waterfront. Marine mammals present in the project area are likely acclimated to non-pulsed sound at levels well above NMFS' threshold for harassment for these types of sound (i.e., 120 dB rms).

There is a general lack of data regarding airborne SPLs from similar pile driving events; however, acoustic monitoring of pile driving events conducted recently by the U.S. Navy in Hood Canal provides approximate source levels of 114.5 and 116.7 dB rms for impact driving and vibratory driving, respectively, of steel piles of 24- to 48-in diameter. Impact driving of 12-in timber piles with a cushion block will likely produce sound at somewhat lower intensity. It is extremely unlikely that pinnipeds will be exposed to airborne SPLs above the relevant thresholds, given the source levels and likely distance between pinnipeds and the activity. Please see Table 2 for estimated distances to thresholds.

Comments and Responses

We published a notice of receipt of the AC34 application and proposed IHA in the **Federal Register** on June 1, 2012 (77 FR 32573). We received comments from the Marine Mammal Commission (Commission), Golden Gate Cetacean Research (GGCR), The Marine Mammal Center (Center), Oceanic Society Expeditions (OSE), and a private citizen. Several commenters expressed concern that the potential for interaction between marine mammals and AC34-related vessels during race events was underestimated. Specifically, commenters believed that interaction could occur between vessels and small cetaceans or pinnipeds, and that we did not consider the best available information for harbor porpoise. These concerns are addressed with greater specificity in comment response. However, we do not believe that take incidental to race events is likely to occur, as described below. With regard to the potential for vessel strike resulting from race events, we believe measures that will be developed and implemented by the Port, ACEA, and the USCG (the permitting authority for race events), in cooperation with interested parties such as GGCR, will be sufficient to mitigate the possibility of vessel strikes. In the event that a vessel strike did occur and could be connected to the AC34 race events, it would be considered an unauthorized take under the MMPA and could be subject to enforcement action.

In addition, it was pointed out that we did not address three species with known occurrence in San Francisco Bay: Bottlenose dolphin (*Tursiops truncatus*), Steller sea lion (*Eumetopias jubatus*), and minke whale (*Balaenoptera acutorostrata*). The information provided in relation to the occurrence of these three species in the Bay did not lead us to believe that authorization of incidental take is warranted; the information provided by commenters may be found in ''Description of Marine Mammals in the Area of the Specified Activity''. The comments, and our responses, are provided here. We have determined that the mitigation measures described here will effect the least practicable impact on the species or stocks and their habitats.

Comment 1: The Commission recommends that we assess and use the average ambient sound level minus two standard deviations down to the 120-dB re 1 μPa threshold as a basis for establishing the Level B harassment zone for vibratory pile driving.

Response: For this action, we concur and will implement the Commission's recommended approach.

Comment 2: The Commission recommends that we require the applicants to implement soft-start procedures after 15 minutes if pile driving was delayed or shut down because of the presence of a marine

mammal within or approaching the shutdown zone and observers did not see that marine mammal leave the zone.

Response: We disagree with this recommendation. The Commission believes it is possible that marine mammals may remain in the shutdown zone beyond the 15 minute required clearance period and not be observed, thus creating a risk of exposure to sound that could result in unauthorized Level A harassment. 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 observation conditions at the San Francisco waterfront. Vibratory driving for this activity is unlikely to produce sound levels above 180 dB rms, while impact driving of 12-in timber piles with a cushion block is predicted to produce sound levels exceeding 180 dB rms at a distance of only 2.2 m from the pile being driven. Neither activity is expected to produce sound exceeding 190 dB rms. It is highly unlikely that a marine mammal could remain within a radius of 10 m (i.e., the radial distance to the conservative shutdown zone to be established by the Port) and not be detected, much less 2.2 m (i.e., the predicted radial distance to the 180 dB isopleths). Further, the required protocol for shutdowns and restarts (assuming the animal is not observed to exit the defined shutdown zone) is founded upon the premise that, based upon dive times and breathing patterns, small cetaceans and pinnipeds are typically unlikely to remain within variably-sized, but usually small, shutdown zones for longer than 15 minutes. A requirement to implement soft-start following a 15 minute shutdown would implicitly reject that premise, i.e., there is no reason to make such a requirement if, as we believe, the 15 minute shutdown period is sufficient for small cetaceans and pinnipeds to clear a defined shutdown zone. We would be interested in and would carefully review any information from the public potentially demonstrating that the 15 minute shutdown period is insufficient.

We believe the possibility of a marine mammal 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, potentially 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 3: The Commission recommends that we require the applicants to monitor before, during, and after all soft-starts of vibratory and impact pile driving to gather the data needed to determine the effectiveness of this technique as a mitigation measure.

Response: The Commission states that the effectiveness of the soft-start technique as a mitigation measure has yet to be empirically verified, and that we should not assume that these procedures constitute an effective mitigation measure. While the Commission is correct in that the effectiveness of the technique has yet to be empirically verified, we would note that we have never made any claims as to any specific degree of efficacy nor have we ever attempted to reflect such an assumption in our estimations of potential incidental take. We do believe it reasonable to expect that the use of soft-start procedures may mitigate the effects of pile driving activity and, in the absence of empirical study, are often required to use measures on the basis of presumed rather than demonstrated efficacy. However, we share with the Commission the desire to empirically verify the efficacy of any measures required, including soft-start, and would welcome suggestions on how best to design and conduct a study accomplishing that goal.

The presumed efficacy of soft-start rests upon the premise that, if a sound is unpleasant to marine mammals, they will generally move away from it, behavioral context notwithstanding. Therefore, if sound is introduced into the marine environment gradually, or at a lower level than would be produced by full-power pile driving, marine mammals should have the opportunity to depart the area of effect before being exposed to maximum sound pressure levels. Any study of soft-start procedures should address questions relating to these assumptions, e.g., what behavior marine mammals exhibit in response to soft-starts and whether sound pressure levels produced during soft-starts are lower than those produced during full-power driving.

The U.S. Navy completed a pile driving project in the Hood Canal, Washington, during 2011. As part of the monitoring effort required for that project, we requested the Navy to investigate the efficacy of soft-start. Their study was generally inconclusive: during vibratory pile driving, sound levels during soft-starts were typically lower than levels measured at the initiation and completion of driving; however, levels varied considerably during driving and were at times lower than those produced during the soft-starts. Mean levels during soft-start were approximately 2 dB lower than those produced during continuous driving, but measured values ranged from 16 dB louder during soft-start than during continuous driving to 14 dB louder during continuous driving—a range of 30 dB. As such, it is difficult to assign a level that describes how much lower the soft-start sound levels were than continuous driving levels. For impact pile driving, data show more consistently that levels were generally lower during soft-starts than during full-power driving, by approximately 4.5 dB. Overall, behavioral monitoring showed minimal variation in the frequency at which most behavioral patterns were observed among different construction categories (soft-starts, vibratory pile driving, and impact pile driving) and non-construction time periods. Animals were occasionally noted diving in conjunction with the onset of soft-start events and subsequently reemerging further away and continuing their previous movements. However, diving behaviors associated with a soft-start event occurred with the same frequency as diving behaviors during non-pile driving times. Despite the inconclusive nature of this opportunistic study, we see value in continuing to request the collection of such information from applicants within the context of agreed-upon monitoring plans. However, it is unclear how expanded monitoring in this case, in the absence of specific experimental design, would satisfy the Commission's request for empirical verification of efficacy.

Comment 4: The Commission recommends that we require the applicants to monitor the Level A and B harassment zones to detect the presence and characterize the behavior of marine mammals during all vibratory and impact pile driving activities.

Response: We proposed, in conjunction with the applicants, that monitoring be conducted during all impact pile driving and for no less than one-third of total vibratory pile driving days. The Commission believes that this level of monitoring effort is not sufficient, and that monitoring should be conducted during 100 percent of pile driving activity. The Commission states that because marine mammal reactions to different sources of disturbance are not always predictable, continuous monitoring is the only way to ensure that unexpected reactions are detected, documented, and evaluated. We agree that marine mammal reactions to a given stimulus are not always predictable; however, the monitoring effort is allocated such that days when extreme reactions might be more likely

(i.e., when activity begins at a new site) as well as days that are representative of typical levels of activity are accounted for. Marine mammal reactions to continuous sound, such as is produced by vibratory pile driving, have not typically been observed to be extreme or unexpected. The purpose of this monitoring is to verify the number and intensity of behavioral reactions that might be considered incidental takes, and the monitoring plan is sufficient to accomplish that task. Further, while dedicated observers are not present during the non-monitored days, construction personnel and project staff are on-site. While lacking the specialized training required of biological observers, they are capable of noticing extreme behavioral reactions of smaller marine mammals or the presence of large whales occurring within 1,000 m of the shore, and notifying the project monitoring team or implementing shutdown as appropriate. Should extreme reactions of marine mammals occur in response to vibratory pile driving (which will not produce sound exceeding thresholds for Level A harassment), the applicants will stop the activities and consult with us.

In addition, we considered and rejected this expanded plan when developing the proposed IHA, and provided a discussion of the reasoning and justification for that decision in the proposed IHA FR notice. Please see that discussion for complete justification of this decision. The Commission has not provided any new information that would change our determination that the monitoring plan is sufficient when considering benefit to the species and practicability for the applicant.

Comment 5: GGCR recommends that we require the establishment of a marine mammal observer network to monitor the presence of marine mammals during all AC34 race events, especially those attracting large crowds of spectator vessels. Additionally, GGCR suggests conducting pre- and post-race studies to both verify the distribution of marine mammals prior to racing events and to determine any long-term effects. The Center also expressed concern about potential incidental take from race events and the lack of an effective monitoring and mitigation plan for such incidents involving small cetaceans or pinnipeds. A private citizen noted that the spectator fleet associated with AC34 race events will cause increased levels of ambient sound in the Central Bay and expressed concern that this may result in acoustic masking, increasing the probability of vessel strike.

Response: We thank the commenters for their concerns and for the information presented. Before addressing those concerns, we need to correct an inaccuracy found in the GGCR comment letter and provide additional information. First, GGCR states that ACEA is predicting over 5,000 spectator vessels on peak days for the 2013 race events. In fact, ACEA predicts that a maximum of 880 boats would be on the water during a peak day in 2013, and that 80 percent of these would be sailboats (i.e., smaller vessels incapable of high rates of speed or erratic maneuvering). An estimated maximum of 340 boats would be present during peak days for 2012 events. Please see ''America's Cup 34 Visitation Analysis,'' provided on our Web site. Second, GGCR believes that, depending on tidal cycle, harbor porpoises could be blocked from entering or leaving the Bay. However, the USCG's Special Local Regulations allow for the races to take place only between 11 a.m. and 4 p.m. on race days, meaning that races will take less than five hours. Although it will take additional time following the close of racing for spectator vessels to disperse, it seems unlikely that movements would be completely blocked over the diel cycle (i.e., 24-hour cycle).

There are two avenues by which take of marine mammals incidental to race events might occur: Behavioral harassment (resulting from vessel noise and/or the physical presence of large numbers of vessels) and direct strike. According to information available from GGCR, the areas with greatest frequency of harbor porpoise sightings are in the vicinity of the Golden Gate, primarily within approximately 2–3 km to the east of the bridge, and the waters between Angel Island and Tiburon. The primary race area, as designated by the USCG, overlaps a portion of this area in the Central Bay and along the south shore to the east of the bridge, although the bulk of the primary race area and designated transit zone do not overlap with the areas of highest sighting frequency. Harbor porpoises could occur within most of the primary race area.

We do not propose to authorize take incidental to AC34 race events. We believe that any effects on marine mammals stemming from race events could occur through behavioral responses to spectator vessels and that direct strike of a marine mammal is unlikely. All vessels associated with race events will be subject to USCG restrictions, and spectator vessels will congregate in designated areas or transit the race area through a designated transit zone at low levels of speed. The actual racing yachts will travel at much higher rates of speed, but in much lesser numbers and on more predictable courses. We believe it most likely that harbor porpoises would avoid areas with a high density of spectator vessels. One commenter expressed concern that vessel noise from spectator vessels could result in acoustic masking, making it more likely that harbor porpoises may not detect the vessels and be unable to avoid strike. We find this unlikely, as most vessels produce sound that, while audible to harbor porpoises, is well below their range of best hearing (Richardson *et al.,* 1995; Southall *et al.,* 2007).

Richardson *et al.* (1995) summarized observations of behavioral disturbance for odontocetes by noting that avoidance can occur and that harbor porpoises in particular tend to change behavior and move away from vessels. However, no clear evidence that habitat use patterns are altered because of vessel traffic exists, especially over short durations as will occur here. For other odontocetes, observed reactions have been related to behavioral context (e.g., resting animals may show avoidance while foraging animals ignore vessels). While it is possible that the increased presence of spectator vessels associated with race events could result in behavioral changes in harbor porpoises or other marine mammals in the Central Bay, it is not possible to predict what responses might be likely. The animals could simply avoid the area where spectator vessels gather, remaining instead in other areas of high sighting frequency to the west of the Golden Gate or to the north of the primary race area near Cavallo Point, or, if attempting to transit through the area where spectator vessels are present, could potentially react to those vessels in ways that might be construed as harassment. It is unclear whether the presence of spectator vessels would cause harbor porpoises to avoid areas of importance for foraging (and no information has been presented indicating that the race course contains such areas) or otherwise alter behavior such that fitness consequences might ensue. However, given that race events will occur over relatively short periods of time—the Event Authority estimates that there would be approximately 4 race days each in August and October 2012, and approximately 44 race days between July and September 2013—it seems unlikely that these potential behavioral changes may accrue to affect an individual's fitness, much less the viability of the resurgent San Francisco Bay population. Nevertheless, any potential incidences of behavioral

harassment resulting from race events would be difficult to quantify.

Because we do not think that take incidental to race events is likely to occur, and the applicants have not requested (and we have not authorized) such take, we have not prescribed additional means for effecting the least practicable impact (i.e., mitigation measures) or requirements pertaining to monitoring and reporting. However, while the preceding paragraphs describe our reasoning in determining that take authorization is not warranted, we appreciate the commenters' concerns and agree that it would be beneficial to ensure that event organizers are aware of marine mammal activity in the vicinity of the course and are able to take appropriate action to further ensure that marine mammals are not harmed. In order to address the commenters' concerns, we have encouraged the applicants to develop a monitoring plan specific to race events and to solicit the expertise of GGCR staff in implementing the plan. Any such plan would be voluntary and in addition to the Water and Air Traffic Plan and any restrictions placed on vessels associated with race events by the permitting authority (USCG). The applicants have presented a draft plan, as follows, to be finalized prior to race events. Portions of this plan involving GGCR staff involvement are subject to final concurrence by GGCR.

America's Cup Race Management will conduct visual monitoring for marine mammals during all race events. During events with less than 500 spectator boats (i.e., greater than 50 percent of estimated peak attendance), monitoring will be conducted by AC34 course marshals in addition to regular duties. A subset of marshals will have been through training prior to race events, and each marshal vessel will have at least one trained marshal aboard. During 2013 race events with greater than 500 spectator boats, monitoring will be conducted by course marshals in concert with professional observers who will have no other duties. AC Race Management will coordinate with GGCR staff to supervise monitoring during those events with greater than 500 spectator boats. The monitoring effort will have three basic components:

(1) *Monitoring for large whales:* Any occurrence of large whales will be communicated to advisory staff and amongst course marshals. Based upon the location and activity of the animal(s) a decision will be made regarding delay or postponement of the race event as appropriate.

(2) *Monitoring for small cetaceans:* Any occurrence of harbor porpoises or bottlenose dolphins will be communicated to advisory staff and amongst course marshals. ACEA is not currently considering postponements of race events in response to the presence of small cetaceans, but will communicate observations of cetacean activity within and around the race area to all race participants and spectators via a designated VHF radio channel. Based upon the location and activity of the animal(s) a decision will be made regarding advisories to mariners as appropriate.

(3) *Other monitoring:* Any observations of interest (e.g., unusual behaviors) for any marine mammals (including pinnipeds) will be recorded and communicated to GGCR and included in any final reporting.

Coordination will include the following:

- GGCR has already and will continue to provide training for AC34 course marshals. Course marshal training includes education regarding marine mammal identification and patterns to look for in their movements and behavior around the bay.
- GGCR will provide one senior staff person to attend weekly briefings during 2013 racing events and provide pertinent information to course marshals for that week. Information may include areas of specific concern related to transit and feeding activities of cetaceans within the proposed race area.
- A dedicated observer will be positioned on the Golden Gate Bridge during 2013 race events with greater than 500 spectator boats with binoculars during each race (30 minutes before and after racing) to record and report any sighting of marine mammal activity.
- During 2013 race events with greater than 500 spectator boats at least 10 percent of GGCR-trained marshals will be on the water (i.e., a minimum of eight trained AC34 staff on as many marshal boats).
- Develop communication chain of command during a race:
  - Course marshals will report any dense activity within the 2012 or 2013 race course to GGCR senior staff. GGCR staff will advise as to significance of activity.
  - A communication chain will be developed. The course marshals will communicate observations of marine mammal activity to AC Race Management and the USCG.
- America's Cup Race Management will submit a report to GGCR and NMFS at the conclusion of the 2013 racing events documenting observations.

Monitoring for marine mammals will include pre-race surveys (60 minutes prior to first race) on days with greater than 500 spectator boats, monitoring during races, post-race surveys (60 minutes after last race) on days with greater than 500 spectator boats, and reporting. We are pleased to advise the applicants on this plan but final development and implementation will be the responsibility of the event organizers and any other entities they choose to involve.

Comment 6: The Center recommends that transit routes to and from locations where pile driving is scheduled to occur be made available for public review and that these be planned to avoid the harbor seal haul-out at Yerba Buena Island (YBI).

Response: It is not anticipated that construction vessels used along the San Francisco waterfront would transit past the harbor seal haul-out on YBI. Any transit routes for personnel and materials associated with pile driving would follow established routes that are frequented by commercial traffic and would not add appreciably to any effects on marine mammals. In 2013 a transit route for race events will be established in the USCG's Special Local Regulations (see USCG SLR map for 2013, available at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*). This transit zone will enable both commercial and recreational users continued access to waterfront berths and facilities during the races. To prevent crowding and congestion in this area, vessels are prohibited from loitering or anchoring in the transit zone. This marine transit zone is located over two miles from the YBI haul-out area.

Comment 7: OSE and the private citizen contend that we failed to adequately consider potential incidental take of gray whales.

Response: The gray whale is typically observed migrating southward along the Central California coast between December and February and then again heading northward between February and July. Observations in San Francisco Bay are typically made from December through May, during the whales' coastal migration. Pile driving activities could overlap with the southbound migrating whales; however, southbound migrants typically travel farther offshore and are less likely to enter into the Bay.

The commenters describe research conducted by OSE in the Bay from 1999–2001, which was presented in 2001 at the 14th Biennial International Conference on Marine Mammals. We have been unable to find any published representation of this work, and no citation was provided. However, the commenters note the study showed that gray whales consistently utilize the

Bay—predominantly the Central Bay—and have been observed in the Bay in every month save August, while also noting that over 95 percent of all sightings during the study occurred during the northbound migration, from February through May.

As described in the FR notice, and supported by the research referenced by the commenters, the vast majority of expected gray whale occurrence will not overlap with either pile driving activity or race events. However, there is some chance that gray whales could occur in the Central Bay during those activities. In order to prevent unauthorized take of gray whales, the applicants will shut down pile driving activity if gray whales are observed within defined harassment zones. Similarly, the plan being developed by the applicants for managing race events will establish monitoring protocols for marine mammals. If any large whales are observed prior to race events, those events will be delayed or postponed as appropriate to avoid the potential for interaction with vessels. We do not believe that authorization of incidental take for gray whales is warranted.

Comment 8: A private citizen expressed concern that the effects of low-level helicopter operations on harbor porpoises were not addressed.

Response: The commenter does not provide any information regarding what may be considered ''low-level'' operations or what specific circumstances might be expected to result in behavioral harassment of harbor porpoises. Helicopter overflights are known to cause startle reactions among certain hauled-out pinnipeds—though it is unclear to what degree a group that is habituated to disturbance may react—but there is no data illustrating what reactions may be expected from cetaceans, if any. We do not generally consider airborne sound to be a significant concern for cetaceans, although the visual stimulus provided by the helicopter may cause a behavioral response. Helicopter operations will only occur in conjunction with race events—which cetaceans may avoid anyway because of increased vessel activity—and helicopters will be restricted from skimming the water (i.e., no flight below 100 ft). While the potential for behavioral harassment of cetaceans from helicopter operations may not be entirely discountable, we do not believe the limited duration of planned helicopter operations to be of concern and any impacts are impossible to quantify. We do not believe that authorization of incidental take for harbor porpoises, specific to helicopter overflights, is warranted.

Description of Marine Mammals in the Area of the Specified Activity

Marine mammals with confirmed occurrences in San Francisco Bay are the harbor seal, California sea lion, harbor porpoise, elephant seal, gray whale, Steller sea lion, bottlenose dolphin, minke whale, humpback whale (*Megaptera noveangliae*), and sea otter (*Enhydra lutris*). The FR notice (77 FR 32573; June 1, 2012) summarizes the population status and abundance of the first four species and provides detailed life history information. Gray whale presence was described in greater detail in the FR notice and in the response to comments provided previously. Bottlenose dolphins, Steller sea lions, and minke whales were not considered in the FR notice, and are addressed in somewhat more detail here. Humpback whales are considered extremely rare in San Francisco Bay and are highly unlikely to be present in the action area, while sea otters are under the jurisdiction of the U.S. Fish and Wildlife Service. Therefore, these two species have not been discussed in detail. Here, we provide supplemental information regarding certain species as submitted through public comment.

Minke Whale

GGCR notes that individuals observed outside of the Golden Gate may occasionally forage within the Bay, and has recorded four minke whale sightings within the Bay since October 2009. We do not believe this information demonstrates that incidental take authorization for minke whales is warranted. As described elsewhere, the applicants will delay or postpone race events if large whales are observed and there is believed to be a risk of interaction. Pile driving activity would be shut down if any species for which take is not authorized were observed within defined harassment zones.

Bottlenose Dolphin

Although the NMFS Stock Assessment Report considers the northern limit of the coastal bottlenose dolphin stock to be the outer coast of San Francisco, GGCR reports observations of bottlenose dolphins within the Central Bay. GGCR suggests that bottlenose dolphins may regularly use those waters for feeding, with small groups observed to enter the Bay for several hours at a time, approximately twice a week, during warmer water months from July through October. At least 25 individuals known from Monterey Bay have been identified in the Bay. Although bottlenose dolphins may regularly use portions of the Central Bay, we do not believe the information, as presented by GGCR and as found in the sources cited by GGCR, indicates that dolphins are likely to occur in nearshore waters of the San Francisco waterfront, i.e., within defined harassment zones for pile driving. Therefore, no incidental take authorization is warranted for bottlenose dolphin.

Harbor Porpoise

GGCR described the evident resurgence of harbor porpoises in the Bay in greater detail than we provided in the FR notice. In summary, GGCR notes that harbor porpoises were first observed in the Bay in 2007–08, following an absence of approximately 65 years, and that they have been observed more frequently and in larger groups since that time. In the western portion of the Central Bay (east of the Golden Gate Bridge) during 2011, GGCR conducted 87 surveys from sea, land, and bridge, and recorded 1,796 sightings. GGCR reports a photo identification catalog of 450 individuals resulting from these sightings, but does not provide any specific density or abundance information that would lead us to believe our estimate of potential incidences of harassment incidental to pile driving activity is an underestimate.

Steller Sea Lion

As reported by GGCR, Steller sea lions are occasionally observed in the Bay. GGCR states that 16 sightings were made over a 2-year period beginning in March 2010. These observations were all made in the western Central Bay, from vantage points on land or the Golden Gate Bridge. Photo identification indicates that these sightings represent at least a few different animals. We do not believe this information demonstrates that incidental take authorization for Steller sea lions is warranted.

Harbor Seal

GGCR notes that harbor seals are frequently observed foraging in the Golden Gate area, and believes that these animals likely travel from closer haul-outs west of the Golden Gate Bridge, rather than from the YBI haul-out. We do not believe that this information affects our take estimates or preliminary findings.

Typically, there is very little marine mammal activity in the waters immediately adjacent to the San Francisco waterfront, where pile driving activities are planned. The general lack of marine mammal activity at the San

Francisco waterfront—other than a California sea lion haul-out at Pier 39—is likely due to the high level of human activity, both urban and industrial in nature. The primary route for shipping traffic into and out of the Port of San Francisco and Port of Oakland is located between the San Francisco waterfront and Angel Island, approximately 5 km to the north. Amongst other uses, tugboat activities occur at Piers 15 and 17, ferry traffic around Pier 1 and along the waterfront to Piers 39 and 45, marine shipping and cargo transport to Piers 80 A–D and Piers 92 and 94–96, and cruise vessel traffic at Piers 27 and 35 (see Figures 1–2 of the application for relative locations). As noted previously, ambient underwater sound has been measured at 133 dB rms, significantly above NMFS threshold for behavioral harassment from non-pulsed sound (120 dB).

Harbor seals and California sea lion are the most common marine mammals in the Bay, and may be found at multiple sites either resting or foraging. There are no documented haul-outs in the vicinity of planned construction or race events other than those discussed in succeeding sections. Various sources have observed pinnipeds resting on channel marker buoys throughout the Bay, on the shorelines of Alcatraz or Angel Island and along the San Francisco waterfront but these locations have not been defined as haul-out sites.

Potential Effects of the Specified Activity on Marine Mammals

We have determined that pile driving, as outlined in the project description, has the potential to result in behavioral harassment of marine mammals that may be present in the project vicinity while construction activity is being conducted. Pile driving could potentially harass those marine mammals that may be in the project vicinity while pile driving is being conducted. Behavioral disturbance is also possible when helicopter overflights or fireworks displays occur. The FR notice (77 FR 32573; June 1, 2012) provides a detailed description of marine mammal hearing and of the potential effects of these activities on marine mammals.

Anticipated Effects on Habitat

No permanent detrimental impacts to marine mammal habitat are expected to result from these activities. Pile driving may impact prey species and marine mammals by causing temporary avoidance or abandonment of the immediate area. Site conditions are expected to be substantively unchanged from existing conditions. In addition, local habitat as it exists is significantly degraded as a result of the history of urban and industrial activity. Overall, the activity is not expected to cause significant or long-term adverse impacts on marine mammal habitat or to the prey base for marine mammals.

Mitigation

In order to issue an incidental take authorization (ITA) under Section 101(a)(5)(D) of the MMPA, we 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).

Estimated distances to various sound thresholds were described previously under 'Sound Thresholds', and are used to establish zones of influence (ZOIs) (described in following sections) to be used as mitigation measures for pile driving activities. ZOIs are often used to effectively represent the mitigation zone that will be established around each pile to prevent Level A harassment of marine mammals. In addition to the specific measures described later, ACEA and the Port will employ the following general mitigation measures:

- All work will be performed according to the requirements and conditions of the regulatory permits issued by federal, state, and local governments.
- Briefings will be conducted between the project construction supervisors and crew and marine mammal observer(s) (MMO) as necessary prior to the start of all pile-driving activity, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.
- Contractors for construction work will comply with all applicable equipment sound standards and ensure that all construction equipment has sound control devices no less effective than those provided on the original equipment (i.e., equipment may not have been modified in such a way that it is louder than it was initially).
- Only one impact pile driver may be operated simultaneously.
- For impact driving of timber piles, a cushion block or similar device will be used for sound attenuation at all times.

Monitoring and Shutdown

Shutdown Zones—For all pile driving activities, a shutdown zone (defined as, at minimum, the area in which SPLs equal or exceed 180/190 dB rms for cetaceans and pinnipeds, respectively) will be established when applicable. For the specified activity, this will be necessary only for impact pile driving. The purpose of a shutdown zone is to define an area within which shutdown of activity will 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. During all impact pile driving, the Port will establish a conservative shutdown zone of 10 m radius around each pile to avoid exposure of marine mammals to sound levels that could potentially cause injury. The shutdown zone will be monitored during all impact pile driving.

Disturbance Zones—For all pile driving activities, a disturbance zone will be established. Disturbance zones are typically defined as the area in which SPLs equal or exceed 160 or 120 dB rms (for impact and vibratory pile driving, respectively). 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 MMOs 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). Disturbance zones will be established with 50 m radius for impact pile driving and 1,000 m radius for vibratory pile driving; these zones will subsume the calculated disturbance zones for harassment from airborne sound.

Monitoring Protocols—The shutdown and disturbance zones will be monitored throughout the time required to drive a pile. If a marine mammal is observed within the disturbance zone, a take will be recorded and behaviors documented. However, that pile segment will be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities will be halted. Impact driving will only occur during daylight hours. If the shutdown zone is obscured by fog or poor lighting conditions, pile driving will not be

initiated until the entire shutdown zone is visible. Work that has been initiated appropriately in conditions of good visibility may continue during poor visibility.

The shutdown zone will be monitored for the presence of marine mammals before, during, and after any pile driving activity. The shutdown zone will be monitored for 30 minutes prior to initiating the start of pile driving. If marine mammals are present within the shutdown zone prior to pile driving, the start of pile driving will be delayed until the animals leave the shutdown zone of their own volition, or until 15 minutes elapse without resighting the animal(s). The shutdown zone will also be monitored throughout the time required to drive a pile. If a marine mammal is observed approaching or entering the shutdown zone, pile driving operations will be discontinued until the animal has moved outside of the shutdown zone. Pile driving will resume only after the animal is determined to have moved outside the shutdown zone by a qualified observer or after 15 minutes have elapsed since the last sighting of the animal within the shutdown zone.

Monitoring will be conducted using binoculars and the naked eye. When possible, digital video or still cameras will also be used to document the behavior and response of marine mammals to construction activities or other disturbances. Each observer will have a radio or cell phone for contact with other monitors or work crews. Observers will implement shutdown or delay procedures when applicable by calling for the shutdown to the hammer operator. A GPS unit or electric range finder will be used for determining the observation location and distance to marine mammals, boats, and construction equipment.

Monitoring will be conducted by qualified observers. In order to be considered qualified, observers must meet the following criteria:

- 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.
- 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.

Soft-start

The objective of a soft-start is to alert any animals close to the activity and allow them time to move away, which should expose fewer animals to loud sounds, including both underwater and above-water sound. This procedure also ensures that any marine mammals missed during shutdown zone monitoring will move away from the activity and not be injured. The following soft-start procedures will be used for in-water pile installation:

- A soft-start technique will be used at the beginning of each day's in-water pile driving activities or if pile driving has ceased for more than 30 minutes.
- If a vibratory driver is used, contractors will be required to initiate sound from vibratory hammers for 15 seconds at reduced energy followed by a 30-second waiting period. The procedure will be repeated two additional times before full energy may be achieved.
- For impact driving, contractors will be required to conduct soft start if the technique is feasible given the hammer type. Soft start will be conducted to provide an initial set of strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then two subsequent sets. The reduced energy of an individual hammer cannot be quantified because they vary by individual drivers. Also, the number of strikes will vary at reduced energy because raising the hammer at less than full power and then releasing it results in the hammer 'bouncing' as it strikes the pile, resulting in multiple 'strikes'.

Helicopter Operations and Fireworks Displays

Approved flight patterns for AC34 contracted and race-affiliated helicopters will be detailed in the Water and Air Traffic Plan, to be created in conjunction with the USCG prior to the conduct of any race events or helicopter operations. The project sponsors are responsible for coordinating with the FAA to ensure compliance with flight regulations and to enforce the flight restrictions identified in the Plan to protect marine mammals. Helicopters will descend/ascend vertically for landing and take-off at the helipad on Treasure Island. Helicopters will not skim the surface of water (i.e., flight no lower than 100 ft) during the race events nor during landing and takeoff operations. In addition, race-related helicopters will maintain a buffer of at least 1,000 ft (vertically and horizontally) around Alcatraz Island and Crissy Beach Wildlife Protection Area, will avoid direct overflights of the Pier 39 haul-out, and will maintain the restriction on flight below 100 ft in the vicinity of Pier 39 where sea lions are known to haul out.

Any fireworks displays will be limited in terms of frequency and location as necessary to protect marine mammals. There will be no more than four events, two up to 30 minutes and two up to 45 minutes in duration in 2013. The fireworks barge will be in a similar location to and of the same noise intensity as the annual 4th of July fireworks display conducted by the City of San Francisco. These fireworks displays will be regulated through the USCG Marine Event Permit process.

NMFS has carefully evaluated the applicant's mitigation measures as proposed and considered their effectiveness in past implementation to determine whether they are likely to effect the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures includes 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; (3) the practicability of the measure for applicant implementation, including consideration of personnel safety, and practicality of implementation.

Injury, serious injury, or mortality to marine mammals is extremely unlikely to result from the specified activities

even in the absence of any mitigation measures. However, in cooperation with the applicants, we require the described mitigation measures to reduce even further the probability of such events occurring and to reduce the number of potential behavioral harassments to the level of least practicable impact. We have determined that these mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat.

Monitoring and Reporting

In order to issue an ITA for an activity, Section 101(a)(5)(D) of the MMPA states that we must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR part 216 indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

The monitoring plan, and all methods identified herein, have been developed through coordination between NMFS and the applicants, and are based on the parties' professional judgment supported by their collective knowledge of marine mammal behavior, site conditions, and project activities. Any modifications to this protocol will be coordinated with us. A summary of the plan, as well as the described reporting requirements, is contained here.

The intent of the monitoring plan is to:

- Comply with the requirements of the MMPA;
- Adequately characterize site-specific ambient sound levels and verify assumptions made regarding sound source levels for impact and vibratory pile driving.
- Avoid injury to marine mammals through visual monitoring of identified shutdown zones and shutdown of activities when animals enter or approach those zones; and
- To the extent possible, record the number, species, and behavior of marine mammals in disturbance zones for specified activities.

As described previously, monitoring for marine mammals during pile driving will be conducted in specific zones established to avoid or minimize effects of elevated levels of sound created by the specified activities. Shutdown and disturbance zones will correspond to the distances described previously in this document.

Acoustic Measurements

Acoustic measurements will be made for ambient sound in the absence of construction activity (Goal 1), as necessary to adequately measure source levels associated with vibratory and impact pile driving (Goal 2), and to characterize site-specific sound propagation (Goal 3). Monitoring in the absence of construction activities will be conducted to determine ambient underwater noise levels in representative locations during hours that pile driving will occur (6 a.m.–6 p.m.) for three consecutive days. Beginning with the first days of activity and continuing for as long as is necessary to measure representative pile driving events, the applicants will conduct acoustic monitoring in order to accomplish Goals 2 and 3. All measurements of impact pile driving will be made with the sound attenuation measures discussed previously in place. Maximum sound pressure levels, as well as approximate distances to relevant thresholds, will be measured and documented. Acoustic monitoring will be conducted in accordance with the Monitoring Plan developed by the applicants and approved by NMFS. Please see that plan, available at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm,* for full details of the required acoustic monitoring.

Visual Monitoring

The established shutdown and disturbance zones will be monitored by qualified marine mammal observers for mitigation purposes, as well as to document marine mammal behavior and incidents of Level B harassment. Monitoring protocols were described in greater detail under ''Mitigation''. The monitoring plan will be implemented, requiring collection of sighting data for each marine mammal observed during the specified activities for which monitoring is required, including all impact pile driving and a subset of vibratory pile driving. Disturbance zones, briefly described previously under ''Mitigation'', are discussed in greater depth here.

Disturbance Zone Monitoring—Disturbance zones are defined as 50 m radius for impact pile driving and 1,000 m radius for vibratory pile driving. Monitoring of disturbance zones will be implemented as described previously in ''Mitigation''. All impact pile driving will be monitored according to described protocols. For vibratory driving, the first two days of representative pile driving activity at each specific location, when the contractors are mobilizing and starting use of the vibratory hammer, will be monitored in order to validate estimates of incidental take and to record behavioral reactions, if any, of marine mammals present in the vicinity. Additional monitoring, to be decided when the schedule of work is provided by the contractor, will be conducted as necessary in each specific location such that a minimum of one-third of the total pile driving days at each location are monitored. These additional days may be scheduled at the discretion of the applicant, but shall include any days of heightened activity (if they occur) or will be representative of typical levels of activity. It is not possible for us to define a 'typical' day of pile driving activity. Should it become apparent that greater than anticipated numbers of animals are being harassed, or that animals are displaying behavioral reactions of greater than anticipated intensity, we may require the applicants to expand the monitoring program.

The monitoring biologists will document all marine mammals observed in the monitoring area. Data collection will include a count of all marine mammals observed by species, sex, age class, their location within or in relation to the zone, and their reaction (if any) to construction activities, including direction of movement, and type of construction that is occurring, time that pile driving begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as wind speed, wind direction, visibility, and temperature will also be recorded. No monitoring will be conducted during inclement weather that creates potentially hazardous conditions, as determined by the biologist, nor will monitoring be conducted when visibility is significantly limited, such as during heavy rain or fog. During these times of inclement weather, impact pile driving will be halted; these activities will not commence until monitoring has started for the day.

Helicopter Operations and Fireworks Displays—In order to estimate levels of take incidental to these activities and to better understand pinniped sensitivity to disturbance from overflights and fireworks displays, the applicants will conduct monitoring as described here. For helicopter operations, at least one monitor will conduct observations at the California sea lion haul-out at Pier 39 (the only established haul-out within the project area) during a subset of helicopter operations days. Monitoring will be conducted for the first five days on which helicopter operations occur in close proximity to Pier 39 in order to confirm assumptions regarding the

degree to which pinnipeds may be disturbed by such operations. If pinnipeds are being disturbed by helicopter operations to a degree similar to that assumed here (see Estimated Take by Incidental Harassment), the applicants shall monitor on additional days, determined by the applicants and contractors, totaling at least one-third of total helicopter operations days. If pinnipeds at Pier 39 are not being disturbed, or are being disturbed to a much lesser degree than what is assumed here, the applicants may cease monitoring after the initial five days.

For fireworks displays, the applicants will conduct a pre- and post-event census of marine mammals within the acute fireworks impact area (the area where sound, light, and debris effects may have direct impacts on marine organisms and habitats) and will also monitor the California sea lion haul-out at Pier 39. The applicants have preliminarily determined that the acute impact area would be of 500 m radius from the fireworks launch area. The pre-event census, conducted in order to estimate the number of marine mammals that may be harassed by displays, will occur as close to the actual display time as possible, will be conducted for no less than 30 minutes, and will describe all observed marine mammals. However, only hauled-out pinnipeds observed in the area during the pre-event census, if any, will be assumed to be incidentally harassed by the display. Post-event monitoring in the acute fireworks impact area, to occur no later than the morning following the display and for no less than 30 minutes, will be conducted to record injured or dead marine mammals, if any.

During monitoring at the Pier 39 haul-out—during helicopter overflights or fireworks displays—monitors will note pinniped disturbance according to a three-point scale indicating severity of behavioral reaction, as shown in Table 3. The time, source, and duration of the disturbance, as well as an estimated distance between the source and haul-out, will be recorded. Only responses falling into Levels 2 and 3 will be considered as harassment under the MMPA, under the terms of this IHA.

TABLE 3—PINNIPED RESPONSE TO DISTURBANCE

Level	Type of response	Definition
1	Alert	Head orientation in response to disturbance. This may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, or changing from a lying to a sitting position. May include slight movement of less than 1 m.
2	Movement	Movements in response to or away from disturbance, typically over short distances (1–3 m).
3	Flight	All flushes to the water as well as lengthier retreats (> 3 m).

All monitoring personnel must have appropriate qualifications as identified previously, with qualifications to be certified by ACEA and the Port (see Mitigation). These qualifications include education and experience identifying marine mammals that may occur in the Bay and the ability to understand and document marine mammal behavior. All monitoring personnel will meet at least once for a training session sponsored by the applicants. Topics will include implementation of the protocol, identification of marine mammals, and reporting requirements.

All monitoring personnel will be provided a copy of the IHA. Monitoring personnel must read and understand the contents of the IHA as they relate to coordination, communication, and identification and reporting incidental harassment of marine mammals.

Reporting

The applicants are required to submit a report on all activities and marine mammal monitoring results to the Office of Protected Resources, NMFS, and the Southwest Regional Administrator, NMFS, 90 days prior to the desired date of validity for any subsequent IHA, or within 90 days of the expiration of the IHA, whichever comes first. A final report will be prepared and submitted within 30 days following receipt of any comments on the draft report. The report will provide descriptions of any observed behavioral responses to the specified activities by marine mammals, including marine mammal observations pre-, during-, and post-activity for pile driving monitoring. At a minimum, the report will include:

- Specifics of the activity: date, time, and location; observation conditions correlated to observer effort; pile driving activity specifications (e.g., size and type of piles, hammer and sound attenuation device specifications);
- Discussion of incidental take, including (1) Records of all marine mammal observations as well as observed incidental take events; (2) for vibratory pile driving, the total estimated amount of incidental take based on extrapolation of observed take; and (3) estimates of take for helicopter operations and fireworks displays.
- Description of observed marine mammal behavior, including correlations of observed behavior to activity, including distance to pile being driven or other source of disturbance; and discussion of sensitivity of hauled-out pinnipeds to helicopter overflights and/or fireworks displays as described previously.
- Discussion of mitigation, including description of any actions performed to minimize impacts to marine mammals; and times when pile driving is stopped or delayed due to presence of marine mammals within shutdown zones and time when pile driving resumes.
- Any recommendations for improving efficacy and efficiency of monitoring and/or mitigation.
- Results of acoustic monitoring, including the following: (1) A description of monitoring equipment and protocols; (2) distance from hydrophones to source; (3) depth of hydrophones; (4) event-specific measurements as well as overall mean source levels (peak and rms SPLs) and distances to thresholds; (5) ambient sound measurements.

Estimated Take by Incidental Harassment

ACEA and the Port requested authorization to take harbor seals, California sea lions, northern elephant seals, and harbor porpoises, by Level B harassment only, incidental to the specified activities. Pile driving activities are expected to incidentally harass marine mammals through the introduction of underwater and/or airborne sound to the environment, while helicopter operations and fireworks displays have the potential to harass pinnipeds through some combination of acoustic and visual stimuli. Based on the nature of the activities and the described mitigation measures, no take by injury, serious

injury, or mortality is anticipated or authorized. Estimates of the number of animals that may be harassed by the specified activities is based upon the number of animals believed to potentially be present within relevant areas at the time a given activity is conducted. Table 4 details the total number of estimated takes. In summary, we authorize the incidental take, by Level B harassment only, of 14,063 California sea lions, 686 harbor seals, 63 harbor porpoises, and two elephant seals. These take events will likely represent multiple takes of individuals, rather than each event being of a new individual.

TABLE 4—INCIDENTAL TAKE ESTIMATES

Species		Pile driving	Helicopter operations	Fireworks displays
California sea lion	Individuals/day	1	250	250
	Total number days	63	52	4
	Total take estimate	63	13,000	1,000
Harbor seal	Individuals/day	2	10	10
	Total number days	63	52	4
	Total take estimate	126	520	40
Harbor porpoise	Individuals/day	1	n/a	n/a
	Total number days	63	n/a	n/a
	Total take estimate	63	n/a	n/a
Elephant seal		Total request of two individuals for all activities		

Pile Driving

California sea lions and harbor seals may use the waters adjacent to the San Francisco waterfront for foraging or for daily movement between foraging and haul-out locations, and observations have been made at various locations along the San Francisco waterfront. The California sea lion haul-out at Pier 39 is approximately 800–1,000 m from the nearest vibratory driving location—although sound will be attenuated by at least three major piers between, as well as the curvature of the waterfront shoreline—and is approximately 1.6 km from Pier 19, where impact pile driving will occur. As previously described in the FR notice, the nearest known haul-out site for harbor seals is at YBI. Vibratory driving locations range approximately 2.4–6.8 km from the haul-out, while Pier 19, where impact driving of timber piles will occur, is more than 3.2 km distant from the haul-out. Planned fireworks displays will be approximately 1.6–3.2 km from Pier 39 and 3.2–4.8 km from YBI, depending on the final selected location. No activities will be expected to affect animals at the YBI haul-out. While it is possible that harbor porpoises could occur in the vicinity of the waterfront—and information provided through public comment has been helpful in better understanding recent trends in porpoise occurrence in the Bay—we still consider their presence in the immediate vicinity of the waterfront to be uncommon. Specifically, information provided by GGCR shows that the greatest frequency of sightings has been in the vicinity of the Golden Gate (within a few kilometers to the east) and in the vicinity of Angel Island. It is possible that harbor porpoises will be present in the immediate vicinity of the waterfront, but we do not expect such occurrence and have no information indicating that our estimate of potential incidental take is not conservative.

The most comprehensive monitoring data available was collected by Caltrans for the San Francisco-Oakland Bay Bridge (SFOBB) project; these data represent the best available information for approximating local abundance of these species. While public comment did provide some new information, particularly for harbor porpoise, no new density or abundance estimates for the waterfront area, where pile driving will occur, were offered. The SFOBB monitoring site was located in the vicinity of the YBI haul-out, whereas most of the sites where construction, helicopter, or fireworks activities will occur are in areas of high commercial shipping and boat activity. Therefore, SFOBB monitoring data may be expected to provide conservative estimates of marine mammal abundance. More recent monitoring was conducted during construction associated with the Exploratorium, located at Piers 15 and 17 at the San Francisco waterfront. During vibratory pile driving only, monitoring was conducted on 25 days from January 10–July 29, 2011, to a distance of approximately 2,000 m from the pile driving location. On those 25 days, the only species observed were the California sea lion and the harbor seal. Harbor seals were observed on 9 of 25 days, while California sea lions were observed on 8 of 25 days. Sightings data provide rates of 0.52 and 0.68 animals observed per monitoring day for harbor seals and California sea lions, respectively.

During monitoring of the SFOBB project over 22 days, abundance estimates of 1.5 seals per day and 0.09 sea lions per day were recorded. Due to the relative tranquility of YBI and the presence of a harbor seal haul-out, the estimate for harbor seals is likely higher than would be found for the San Francisco waterfront. However, as confirmed by information from the Exploratorium monitoring effort, the estimate for California sea lions is likely lower, given that greater numbers of that species may be encountered transiting to and from the Pier 39 haul-out.

The applicants proposed conservative estimates of two harbor seals per day—a slight increase from the SFOBB data—and one California sea lion per day, a slight increase from the Exploratorium observations. The Caltrans SFOBB monitoring reported one observed harbor porpoise in the vicinity of YBI. We believe that, despite observations of larger groups of porpoise reported from the western Central Bay, an estimate of one harbor porpoise per day of activity in the vicinity of the waterfront is a very conservative estimate. Based on

estimated pile driving production rates, a maximum of 63 days is anticipated for pile driving under this IHA.

Helicopter Operations and Fireworks Displays

Incidental take resulting from helicopter overflights and/or fireworks displays will likely be limited to California sea lions and harbor seals occurring within the immediate vicinity of a helicopter flight patterns or fireworks displays. Specifically, California sea lions present at Pier 39 will likely be subject to incidental harassment, although there is the potential for harbor seals to be hauled-out within range of stimuli that may cause harassment.

Estimates of the number of California sea lions that could be harassed by helicopter operations and/or fireworks displays are based on information from the Pier 39 haul-out. California sea lion usage of Pier 39 is a relatively recent phenomenon. The first individuals were observed during the winter of 1989–90, however, by the next year the numbers reached an average 500 per day (Goals Project, 2000), with a maximum recorded observation of approximately 800 individuals. Since that the early 1990s, peak numbers during winter have declined and now average about 200–300 animals per day. In order to estimate incidental take, a conservative estimate of 500 animals present per day was considered. Observations of pinniped response to the presence of humans on foot in the Channel Islands indicated that the proportion of California sea lions hauled out at the time of disturbance that are behaviorally harassed is approximately 50 percent (77 FR 12246), although this is likely conservative, given that the animals at Pier 39 are more habituated to stimuli than those in more remote locations.

Estimates of the number of harbor seal that may be present during helicopter operations and/or fireworks displays are based on local observations reported by the applicants—no other information upon which to base the estimate is known to us or to the applicants. Anecdotal information from monitoring of fleet week, National Park Service staff observations, and local sailors reported observations of anywhere from 10–15 seals per day while out on the water. Therefore, in an extremely conservative estimation, we assume that ten animals per day may be hauled-out in locations along the waterfront and that all animals will be harassed. The previously mentioned Channel Islands observations indicate that approximately 75 percent of animals hauled-out at the time of disturbance are harassed by a given stimuli, but it is likely that all animals will flush in this context.

Elephant Seals

As stated previously, elephant seals breed between December and March and have been rarely sighted in the Bay. However, regular, if infrequent, sightings of juveniles have been made in recent years at Crissy Field beach. Therefore, it is possible that an elephant seal could occur within areas that are ensonified above levels that NMFS considers to result in Level B harassment. Although possible, it is unlikely that elephant seals will be harassed; however, in order to be precautionary the applicants have requested authorization for incidental take of two elephant seals over the life of the IHA and we have authorized that take. There is no information upon which to base a quantitative estimate of potential take; therefore, take is estimated on the basis of the few individuals observed at Crissy Field beach.

It is not anticipated that elephant seals will be harassed by helicopter operations and/or fireworks displays because (1) Elephant seals have been observed, during the aforementioned Channel Island monitoring, to display behavioral reactions to potentially harassing stimuli less than one percent of the time; (2) Crissy Field beach is over 4 km distant from the nearest potential fireworks display location; and (3) helicopters will avoid Crissy Field beach by 1,000 ft in response to concerns about sensitive avian species.

Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) The number of anticipated mortalities (if any); (2) the number and nature of anticipated injuries (if any); (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the take occurs.

Although the specified activities may harass marine mammals present in the action area, impacts are largely occurring to a localized group of animals (i.e., the California sea lions present in the vicinity of Pier 39 and harbor seals from YBI that may be present at the San Francisco waterfront). Further, any incidents of harassment will be occurring to animals that are habituated to a high level of surrounding human activity, including both urban and industrial activity, and to an already loud environment. Monitoring associated with the Exploratorium project resulted in no observations of discernible reactions to vibratory pile driving or any other work activity, although animals were observed as close as 12 m from pile driving. No avoidance behavior was observed, including even basic reactions such as head alerts. Both sea lions and harbor seals appeared to use the waterfront for travelling along a rough north-south course. Travel was typically slow, although some fast traveling (indicating by porpoising) by sea lions was noted. A few individuals of both species were also observed resting at the surface. Frequent commercial and recreational vessel traffic was consistently observed on all monitoring days, and observed animals were reported as appearing habituated to such traffic.

The authorized number of incidences of harassment for each species can be considered small relative to the population size. There are an estimated 30,196 harbor seals in the California stock, 296,750 California sea lions, 9,189 harbor porpoises in the San Francisco-Russian River stock, and 124,000 northern elephant seals in the California breeding population. Based on the best available information, we have authorized the take, by Level B harassment only, of 14,063 California sea lions, 686 harbor seals, 63 harbor porpoises, and two northern elephant seals, representing 4.7, 2.3, 0.7, and 0.002 percent of the populations, respectively. However, this represents an overestimate of the number of individuals harassed over the duration of the IHA, because these totals represent much smaller numbers of individuals (i.e., resident individuals that may occur in the vicinity over the course of multiple days) that may be harassed multiple times. No stocks known from the action area are listed as threatened or endangered under the ESA or determined to be depleted or considered strategic under the MMPA. Recent data suggests that harbor seal populations have reached carrying capacity, populations of California sea lions and northern elephant seals in California are also considered healthy, and recent information suggests that the harbor porpoise may be expanding its range on the west coast. No injury, serious injury, or mortality is anticipated, nor is the specified action

likely to result in long-term impacts such as permanent abandonment of the Pier 39 haul-out or a permanent reduction in presence in San Francisco Bay. We do not believe that the waterfront activities described here will impact the resurgent presence of harbor porpoise in San Francisco Bay. Apart from the race events occurring in the open waters of the Central Bay, the waterfront activities do not represent a significant departure from typical levels of urban and industrial activity in San Francisco. No impacts are expected at the population or stock level.

Based on the foregoing analysis, behavioral disturbance to marine mammals in the Bay will be of low intensity and limited duration. To ensure minimal disturbance, the applicants will implement the mitigation measures described previously, which we have determined will serve as the means for effecting the least practicable adverse impact on the relevant marine mammal stocks or populations and their habitat. We find that the specified activities will result in the incidental take of small numbers of marine mammals, and that the requested number of takes will have no more than a negligible impact on the affected species and stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

There are no ESA-listed marine mammals expected to occur in the action area; therefore, no consultation under the ESA is required.

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, we have prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from issuance of an IHA to ACEA and the Port for the specified activities. We subsequently reached a Finding of No Significant Impact, which was signed on July 27, 2012. Those documents are available for review at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Authorization

As a result of these determinations, we have issued an IHA to the Port and ACEA to conduct the described activities in San Francisco Bay for a period of one year, provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: July 31, 2012.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–19554 Filed 8–8–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Change of Names Given for the Performance Review Board for the Department of the Air Force.

AGENCY: Department of the Air Force, DOD.

ACTION: Notice.

SUMMARY: Notice is given to replace a member of the 2012 Performance Review Board for the Department of the Air Force.

DATES: *Effective Date:* November 6, 2012.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c) (1–5), the Department of the Air Force (AF) announced the appointment of members to the AF's Senior Executive Service Pay Pool and Performance Review Board for 2012. The authorizing official approved the notice update on July 19, 2012 (77 FR 19265–19266), to replace a member of the Air Force 2012 Performance Review Board, Lt. Gen. Davis, Military Deputy, Office of the Assistant Secretary of the Air Force for Acquisitions with Lt Gen Basla, Chief, Information Dominance and Chief Information Officer, Office of the Secretary of the Air Force.

FOR FURTHER INFORMATION CONTACT: Please direct any written comments or requests for information to Ms. Erin Moore, Deputy Director, Senior Executive Management, AF/DPS, 1040 Air Force Pentagon, Washington, DC 20330–1040 (PH: 703–695–7677; or via email at *erin.moore@pentagon.af.mil.*)

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 2012–19426 Filed 8–8–12; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Office of Planning, Evaluation and Policy Development; Strategies for Preparing At-Risk Youth for Postsecondary Success

SUMMARY: Strategies for Preparing At-Risk Youth for Postsecondary Success focuses on preventing students from dropping out and preparing them for postsecondary education or training.

DATES: Interested persons are invited to submit comments on or before September 10, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04858. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance

the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Strategies for Preparing At-Risk Youth for Postsecondary Success.

OMB Control Number: Pending.

Type of Review: New.

Total Estimated Number of Annual Responses: 132.

Total Estimated Number of Annual Burden Hours: 116.

Abstract: Educators are increasingly concerned about poor high school graduation rates, especially among at-risk youth. Many of the programs adopted by districts and schools to decrease the dropout rate traditionally set the goal of completing high school. Programs that meet the dual goals of supporting at-risk youth to graduate from high school and then enroll in and succeed in postsecondary education are not commonly found in most school districts and few studies of dropout prevention programs have a postsecondary focus. This study aims to fill a gap by conducting qualitative case studies of up to 15 sites with a focus on preventing students from dropping out and preparing them for postsecondary education or training. This study will systematically analyze qualitative data across multiple respondents to generate portraits of programs and strategies that the sites use, lessons based on implementation successes and challenges, and evidence suggesting their effectiveness in improving the outcomes of interest.

To complete the study, the U.S. Department of Education is requesting OMB approval of two related qualitative data collection activities: (1) A phone screen with local program managers to determine the final sample of case studies and (2) up to 15 site visits to a purposive case study sample. Although the lessons are not generalizable to a larger population because the sample is purposive and small, the case studies will provide rich contextual information to help practitioners assess the applicability of the lessons in their own schools or districts.

Dated: August 3, 2012.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–19480 Filed 8–8–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2823–018]

Algonquin Power Company; Notice of Application Accepted for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Accelerate License Expiration Date.

b. *Project No:* 2823–018.

c. *Date Filed:* June 8, 2012.

d. *Applicant:* Algonquin Power Company.

e. *Name of Project:* Lower Beaver Falls Hydroelectric Project.

f. *Location:* The proposed project is located on the Beaver River in Lewis County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Armando Sanchez, PE, Senior Project Manager, Algonquin Power Company, 2845 Bristol Circle, Oakville, Ontario, Canada L6H 7H7, 905–465–4555, *Armando.sanchez@algonquinpower.com.*

i. *FERC Contact:* Jake Tung, (202) 502–8757, or email at *hong.tung@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protest:* September 6, 2012.

Comments, motions to intervene, and protests may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''eFiling'' link. If unable to be filed electronically, documents may be paper-filed.To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC. 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.*

k. *Description of Request:* The licensee proposes to amend the license for the Lower Beaver Falls Hydroelectric Project (P–2823) to accelerate the expiration date of the license which expires September 30, 2019. The licensee requests the Commission to issue an order accelerating the expiration date of the license to December 31, 2017. The reasons for the request follow: (1) The licensee also operates the Upper Beaver Falls Hydroelectric Project (P–2593), which is located immediately upstream from the Lower Beaver Falls Hydroelectric Project; (2) the current license for the Upper Beaver Falls Hydroelectric Project expires December 31, 2017, and the licensee will file a subsequent license application no later than December 31, 2015; and (3) the licensee would like to combine the relicensing activities since the two projects are small in size, approximate in location, and only approximately two years apart in license expiration date, which would result in substantial savings to the licensee and more effective consultation with resources agencies and other stakeholders. The project Lower Beaver Falls project works consist of: (1) A 4-acre reservoir formed by a 400-foot long concrete gravity dam with a maximum height of 14 feet, and a head pond elevation of 769.3 feet under normal operating conditions; (2) a powerhouse containing two 500-kW hydroelectric units;(3) a 2,400-volt transmission line 250 feet long; and (4) appurtenant facilities.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must

be received on or before the specified comment date for the particular application.

o. *Development Application:* Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

p. All filings must (1) Bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and seven copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

q. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have—no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19515 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2169–104]

Alcoa Power Generating Inc.; Brookfield Smoky Mountain Hydropower LLC; Notice of Application for Transfer of License, and Soliciting Comments and Motions To Intervene

On July 31, 2012, Alcoa Power Generating Inc. (transferor) and Brookfield Smoky Mountain Hydropower LLC (transferee) filed an application for the transfer of license for the Tapoco Hydroelectric Project (FERC No. 2169), located on the Little Tennessee and Cheoah Rivers in Graham and Swain counties in North Carolina, and Blount and Monroe counties in Tennessee.

Applicants seek Commission approval to transfer the license for the Tapoco Hydroelectric Project from the transferor to the transferee.

Applicants' Contact: Transferor: Alcoa Inc., 390 Park Avenue, New York, New York 10022, Attn: Mr. Marc A. Pereira, Director, Corporate Development and Mr. David R. Poe, Bracewell & Giuliani LLP, 2000 K Street NW., Suite 500, Washington, DC 20006, (202) 828–5800, email *david.peo@bgllp.com.*

Transferee: BAIF U.S. Renewable Power Holdings LLC, 200 Donald Lynch Blvd., Suite 300, Marlboro, MA 01752, Attn: Mr. David Bono, Vice President, Law and General Counsel and Mr. Patrick E. Groomes, Fulbright & Jaworski, L.L.P., 801 Pennsylvania Ave. NW., Washington, DC, (202) 662–4556, email *pgroomes@fulbright.com.*

FERC Contact: Patricia W. Gillis (202) 502–8735, *patricia.gillis@ferc.gov.*

Deadline for filing comments and motions to intervene: 30 days from the issuance date of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1) and the instructions on the Commission's Web site under *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original plus seven copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. More information about this project can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–2169) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Dated: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19514 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–484–000]

East Tennessee Natural Gas, LLC; Notice of Application

Take notice that on July 20, 2012, East Tennessee Natural Gas, LLC (East Tennessee), 5400 Westheimer Court, Houston, TX 77056–5310, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA) requesting authorization to construct, install, own, operate and maintain approximately 2,800 feet of 8-inch diameter pipeline lateral, a new metering station, a new main line valve and pressure limiting instrumentation, as well as all related and appurtenant facilities to provide up to 5,700 dekatherms per day (Dth/d) of firm transportation service and to establish an initial recourse rate for firm transportation service on the facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC

at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Lisa A. Connolly, General Manager, Rates and Certificates, 5400 Westheimer Court, P.O. Box 164, Houston, TX 77251–1642, or telephone at (713) 627–4102, or by email *laconnolly@spectraenergy.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: August 23, 2012.

Dated: August 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19525 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the PJM Interconnection, LLC (PJM):

PJM Regional Transmission Planning Task Force/PJM Interconnection Process Senior Task Force

August 10, 2012, 9:30 a.m.–3 p.m., Local Time.
September 7, 2012, 9:30 a.m.–3 p.m., Local Time.
September 17, 2012, 9:30 a.m.–3 p.m., Local Time.
October 8, 2012, 9:30 a.m.–3 p.m., Local Time.
October 29, 2012, 9:30 a.m.–3 p.m., Local Time.

The above-referenced meeting will be held over conference call or at:
The PJM Conference & Training Center, Norristown, PA.

The above-referenced meetings are open to stakeholders.

Further information may be found at *www.pjm.com.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. EL05–121, *PJM Interconnection, L.L.C.*
Docket No. ER10–253 and EL10–14, *Primary Power, L.L.C.*
Docket No. EL10–52, *Central Transmission, LLC v. PJM Interconnection, L.L.C.*
Docket No. ER11–4070, *RITELine Indiana et. al.*
Docket No. ER11–2875 and EL11–20, *PJM Interconnection, L.L.C.*
Docket No. ER09–1256, *Potomac-Appalachian Transmission Highline, L.L.C.*
Docket No. ER09–1589, *FirstEnergy Service Company*
Docket No. ER10–549, *PJM Interconnection, L.L.C.*
Docket No. EL11–56, *FirstEnergy Service Company*
Docket No. EL12–38, *New York Independent System Operator, Inc.*
Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–2140, *PJM Interconnection, L.L.C.*
Docket No. ER11–2622, *PJM Interconnection, L.L.C.*
Docket No. ER11–3106, *PJM Interconnection, L.L.C.*
Docket No. ER11–4379, *PJM Interconnection, L.L.C.*
Docket No. ER12–445, *PJM Interconnection, L.L.C.*
Docket No. ER12–773, *PJM Interconnection, L.L.C.*
Docket No. ER12–718, *New York Independent System Operator, Inc.*
Docket No. ER12–1177, *PJM Interconnection, L.L.C.*
Docket No. ER12–1178, *PJM Interconnection, L.L.C.*
Docket No. ER12–1693, *PJM Interconnection, L.L.C.*

Docket No. EL12–69, *Primary Power LLC v. PJM Interconnection, L.L.C.*
Docket No. ER12–1700, *PJM Interconnection, L.L.C.*
Docket No. ER12–1901, *GenOn Power Midwest, LP*
Docket No. ER12–2080, *GenOn Power Midwest, LP*
Docket No. ER12–2085, *PJM Interconnection, L.L.C.*
Docket No. ER12–2260, *New York Independent System Operator, Inc.*
Docket No. ER12–2880, *PJM Interconnection, L.L.C.*

For more information, contact Jonathan Fernandez, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6604 or *jonathan.fernandez@ferc.gov.*

Dated: August 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19527 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–98–000]

Hudson Transmission Partners, LLC v. New York Independent System Operator, Inc.; Notice of Complaint

Take notice that on August 3, 2012, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure; 18 CFR 385.206 (2012) and sections 206 and 306 of the Federal Power Act, Hudson Transmission Partners, LLC (Complainant) filed a formal complaint against the New York Independent System Operator, Inc. (Respondent). As more fully explained in the Complaint, the Complainant alleges that the Respondent applied the Mitigation Exemption Test using methods and assumptions that are unjust, unreasonable, and unduly discriminatory; and inconsistent with the requirements of the Open Access Transmission Tariff and the Services Tariff.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. 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 *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on August 23, 2012.

Dated: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19516 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–448–000]

Appalachian Gateway Project; Notice of Availability of Draft General Conformity Analysis

In accordance with the National Environmental Policy Act of 1969, the Clean Air Act and the Federal Energy Regulatory Commission's (Commission or FERC's) regulations, Commission staff has prepared this draft General Conformity Determination (GCD) for the Appalachian Gateway Project (Project) to assess the potential air quality impacts associated with the construction and operation of natural gas pipelines, compressor stations, and aboveground facilities currently being constructed by Dominion Transmission, Inc (Dominion) under Docket Number CP10–448–000 in Pennsylvania.

The FERC staff concludes that the Project will achieve conformity in Pennsylvania with the use of Pennsylvania Department of Environmental Protection emission credits. If significant new comments are received by the end of the 30-day public comment period, which ends on September 2, 2012, FERC staff will issue a final GCD to address any changes necessary and respond to comments. If no new significant comments are received, FERC staff will issue a public notice identifying this GCD as final.

The revised draft GCD addresses the potential air quality impacts on Pennsylvania air quality from the construction and operation of the Project. The Project consists of the following natural gas pipeline facilities in West Virginia and Pennsylvania: construction of 109.1 miles of 20-inch, 24-inch, and 30-inch-diameter interstate natural gas transmission pipeline, four new compressor stations, and modifications to two existing compressor stations.

Any person wishing to comment on the draft GCD may do so. To ensure that your comments are properly recorded and considered prior to issuance of the final GCD, it is important that we receive your comments in Washington, DC on or before September 2, 2012.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP10–448–000) with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the Quick Comment feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *http://www.ferc.gov* under the link to Documents and Filings. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select

the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Additional information about the project is available from the Commission's Office of External Affairs at (866) 208–FERC. The administrative public record for this proceeding to date is on the FERC Web site *http://www.ferc.gov.* Go to Documents Filings and choose the eLibrary link. Under eLibrary, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (e.g., CP010–448). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at: *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY call (202) 502–8659. The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

You may also register online at *www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Eric Tomasi by telephone at 202–502–8097 or by email at *Eric.Tomasi@ferc.gov.*

Dated: August 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19506 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1892–000 New Hampshire-Vermont; Project No. 1855–000 New Hampshire-Vermont; Project No. 1904–000 New Hampshire-Vermont; Project No. 2485–000 Massachusetts; Project No. 1889–000 Massachusetts]

TransCanada Hydro Northeast Inc.; FirstLight Power Resources; Notice of Environmental Site Review

In anticipation of the filing of a Notice of Intent (NOI) and Pre-Application Document for three hydroelectric projects owned and operated by TransCanada Hydro Northeast Inc. (TransCanada) in New Hampshire and Vermont (Wilder Dam Hydroelectric Project No. 1892, Bellows Falls Hydroelectric Project No. 1855, and Vernon Dam Hydroelectric Project No. 1904), and two projects owned and operated by FirstLight Power Resources in Massachusetts (Northfield Mountain Pumped Storage Hydroelectric Project No. 2485, and Turners Falls Hydroelectric Project No. 1889), all located on the Connecticut River, the Federal Energy Regulatory Commission (Commission) will be hosting an environmental site review for each of the projects during the first week of October 2012.

The environmental site reviews are being held to provide all stakeholders, interested in the projects' pending relicensing proceedings, an opportunity to view the projects' facilities and surrounding areas.

Under the Commission's Integrated Licensing Process, the Commission conducts its National Environmental Policy Act (NEPA) scoping meeting within 90 days of the filing of the Licensee's Notice of Intent. An environmental site review is typically held in conjunction with that scoping meeting. However, access to some project facilities may be limited by winter weather during the early part of 2013 when scoping for this project is currently anticipated. For this reason, the Commission has chosen to host the environmental site reviews in October before the onset of winter. While the Commission expects to host its NEPA scoping meetings for the projects in early 2013, it will not conduct the environmental site reviews at that time. As such, the Commission encourages all interested parties to participate in the October environmental site review(s) to facilitate productive scoping meetings early next year. Details of the project specific environmental site reviews follow.

TransCanada's Projects

Wilder Dam Hydroelectric Project (P–1892)

- Tour of Wilder Project Facilities

Date and Time: October 1, 2012 at 9 a.m.

Location: Wilder Station, 351 Wilder Dam Rd., Wilder, VT 05088.

- Wilder Project Reservoir Tour

Date and Time: October 1, 2012 at 1 p.m.

Location: Wilder Station, 351 Wilder Dam Rd., Wilder, VT 05088.

Bellows Falls Hydroelectric Project (P–1855)

- Tour of Bellows Falls Project Facilities

Date and Time: October 2, 2012 at 9 a.m.

Location: Bellows Falls Hydroelectric Project Visitor Center, 17 Bridge St., Bellows Falls, VT 05101.

- Bellows Falls Project Reservoir Tour

Date and Time: October 2, 2012 at 1 p.m.

Location: Pine Street Recreation Area, 99 Pine St., North Walpole, NH 03609.

Vernon Dam Hydroelectric Project (P–1904)

- Tour of Vernon Project Facilities

Date and Time: October 3, 2012 at 9 a.m.

Location: Vernon Station, 152 Governor Hunt Road, Vernon VT 05354.

- Vernon Project Reservoir Tour

Date and Time: October 3, 2012 at 1 p.m.

Location: Vernon Station, 152 Governor Hunt Road, Vernon VT 05354.

FirstLight's Projects

FirstLight will bus attendees from the Northfield Mountain Visitors Center to tour the Northfield Mountain Pumped Storage Hydroelectric Project and the Turners Falls Hydroelectric Project. Bus capacity is approximately 55 individuals. In addition, FirstLight is providing a boat tour of the section of the Connecticut River impounded by the Turners Falls Project which also serves as the lower reservoir for the Northfield Mountain Pumped Hydroelectric Storage Project. Boat capacity is approximately 44 individuals. Depending on the number of participants that R.S.V.P., two tour groups (Group 1 and Group 2) may be established. The schedule below reflects the two groups. All individuals should meet at the Northfield Mountain Visitors Center (address below) on October 4, 2012 at 8 a.m. for a briefing on both projects.

Group 1 Schedule:

Northfield Mountain Pumped Storage Hydroelectric Project (P–2485)

- Tour of Northfield Mountain Pumped Storage Project Facilities

Date and Time: October 4, 2012 at 8 a.m.

Location: Northfield Mountain Visitors Center, 99 Millers Falls Road, Northfield, MA 01360.

• Reservoir Tour (P–1889 & P–2485)

Date and Time: October 4, 2012 at 1 p.m.

Location: Northfield Mountain Visitors Center, 99 Millers Falls Road, Northfield, MA 01360.

Turners Falls Hydroelectric Project (P–1889)

• Tour of Turners Falls Hydroelectric Project Facilities

Date and Time: October 5, 2012 at 8 a.m.

Location: Northfield Mountain Visitors Center, 99 Millers Falls Road, Northfield, MA 01360.

Group 2 Schedule:

Northfield Mountain Pumped Storage Hydroelectric Project (P–2485)

• Reservoir Tour (P–1889 & P–2485)

Date and Time: October 4, 2012 at 8 a.m.

Location: Northfield Mountain Visitors Center, 99 Millers Falls Road, Northfield, MA 01360.

• Tour of Northfield Mountain Pumped Storage Project Facilities

Date and Time: October 4, 2012 at 1 p.m.

Location: Northfield Mountain Visitors Center, 99 Millers Falls Road, Northfield, MA 01360.

Turners Falls Hydroelectric Project (P–1889)

• Tour of Turners Falls Hydroelectric Project Facilities

Date and Time: October 5, 2012 at 8 a.m.

Location: Northfield Mountain Visitors Center, 99 Millers Falls Road, Northfield, MA 01360.

Directions and Logistics

For safety purposes, individuals attending an environmental site review and/or Reservoir Tour are asked to dress accordingly. Please wear pants, long sleeve shirts, and closed-toe shoes. Failure to comply with this request may result in limiting the attendee's access to project facilities.

To facilitate logistical arrangements, if you plan to attend an environmental site review and/or reservoir tour, please R.S.V.P. to the appropriate licensee point-of-contact (see below) by September 15, 2012, and identify the number of individuals in your group.

Licensee Points-of-Contact

TransCanada Projects: Mr. John Ragonese, FERC License Manager, TransCanada, 4 Park Street, Concord, NH 03301, Phone: (603) 225–5528; Cell/VM (603) 498–2851, Email: *john_ragonese@transcanada.com.*

FirstLight Projects: Mr. John Howard, Station Manager, FirstLight, 99 Millers Falls Road, Northfield, MA 01360, Phone: (413) 659–4489, Email: *John.Howard@gdfsuezna.com.*

If you need further logistical information or directions, please contact the appropriate licensee point-of-contact identified above. All other questions regarding the environmental site review(s) or the Commission's Integrated Licensing Process may be directed to Kenneth Hogan of the Commission's staff at (202) 502–8434 or via email at: *Kenneth.Hogan@ferc.gov.*

Dated: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19513 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC12–93–000]

Entergy Gulf States Louisiana, LLC; Notice of Filing

Take notice that on May 2, 2012, Entergy Gulf States Louisiana, LLC, (Entergy Gulf States) requested approval to use Account 439, Adjustments to Retained Earnings, to correct a proposed accounting error related to its past practice of deferring certain income tax items. Additionally, on July 2, 2012, Entergy Gulf States submitted additional information regarding its accounting request.

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 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: September 4, 2012.

Dated: August 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19504 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC12–120–000]

Sierra Pacific Power Company; Notice of Filing

Take notice that on July 13, 2012, Sierra Pacific Power Company d/b/a NV Energy requested an accounting interpretation concerning the proper accounting treatment of an insulator replacement program, i.e., to account for the program as a capital expenditure or maintenance expense.

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 or 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the

Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: September 4, 2012.

Dated: August 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19505 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2381–000]

MP2 Energy NE 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 MP2 Energy NE 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19510 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2307–000]

Escanaba Green Energy, 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 Escanaba Green Energy, 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19517 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2374–000]

Tall Bear Group, 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 Tall Bear Group, 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19524 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2313–000]

Laurel Hill Wind Energy, 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 Laurel Hill Wind Energy, 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19522 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2311–000]

Beebe Renewable Energy, 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 Beebe Renewable Energy, 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19520 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2309–000]

Bartram Lane 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 Bartram Lane 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19518 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2314–000]

Spinning Spur Wind LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Spinning Spur Wind 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19523 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2312–000]

Perigee Energy, 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 Perigee Energy, 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19521 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2310–000]

Zephyr Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Zephyr Wind, 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19519 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2384–000]

BFES 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 BFES 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19511 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2388–000]

BFES 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 BFES 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 24, 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: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19512 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–13123–002–CA]

Eagle Mountain Pumped Storage Hydroelectric Project; Eagle Crest Energy; Notice of Meeting Postponement

On July 17, 2012, the Commission issued a ''NOTICE OF MEETING WITH THE BUREAU OF LAND MANAGEMENT''. That meeting was scheduled to occur on Wednesday, August 15, 2012, at 9 a.m. (Pacific Time), and on Thursday, August 16, 2012, at 9 a.m. (if needed). The purpose of the meeting is to provide Commission staff and the staff of the Bureau of Land Management an opportunity to improve agency coordination and discuss the agencies' overlapping jurisdictions (pursuant to the Federal Land Policy and Management Act and the Federal Power Act), on the Eagle Mountain Pumped Storage Hydroelectric Project. However, the meeting has been postponed.

Notice of the date, time, and location of the meeting will be provided in a future notice upon the meeting's rescheduling. Any questions regarding this notice should be directed to Kenneth Hogan at: (202) 502–8434, or via email at: *Kenneth.Hogan@ferc.gov*.

Dated: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19507 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14432–001]

Archon Energy 1, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 18, 2012, Archon Energy 1, Inc. (Archon or applicant), filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the DaGuerre Point Dam Hydropower Project (DaGuerre Point Dam Project or project) to be located at the U.S. Army Corps of Engineers' (USACE) DaGuerre Point Dam, on the Yuba River, near the City of Marysville, Yuba County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A diversion structure and intake canal; (2) a powerhouse containing eight 375 kW Archimedean screw turbine/generating units with a total capacity of 3 megawatts; (3) a tailrace channel; and (4) a 3,500-foot-long, 12-kilovolt (kV) transmission line. The proposed project would have an average annual generation of 21,000 megawatt-hours.

Applicant Contact: Mr. Paul Grist, Archon Energy 1, Inc., 101 E. Kennedy Blvd., Suite 2800, Tampa, Florida 33602. (403) 618–2018.

FERC Contact: Kenneth Hogan, *Kenneth.hogan@ferc.gov,* (202) 502–8434.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://*

www.ferc.gov/docs-filing/ecomment.asp. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14432) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19508 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Prohibited docket No.	Communication date	Presenter or requester
1. EC11–60–000	7–23–12	Jonathan S. Smythe [1]

[1] Email record.

Exempt docket No.	Communication date	Presenter or requester
1. CP12–30–000	5–16–12	FERC Staff [2]
2. OR12–17–000 IS12–236–000	7–19–12	Hon. Collin C. Peterson
3. ER12–1698–000 ER12–1699–000	7–19–12	New Mexico Public Regulation Commission

[2] Telephone record.

Dated: August 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19509 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–486–000]

Dominion Transmission, Inc.; Notice of Request Under Blanket Authorization

Take notice that on July 20, 2012, Dominion Transmission, Inc. (Dominion), 701 East Cary Street, Richmond, Virginia 23219, filed a prior notice application pursuant to sections 157.205 and 157.208 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act (NGA), and Dominion's blanket certificate issued in Docket No. CP82–537–000, to replace approximately 5.07 miles of various diameter pipelines and associated appurtenances located Westmoreland County, Pennsylvania, all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at

FERCOnlineSupport@ferc.gov or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Brad Knisley, Regulatory and Certificates Analyst, Dominion Transmission, Inc., 701 East Cary Street, Richmond, VA 23219, or telephone (804) 771–4412, or facsimile (804) 771–4804, or by email *Brad.A.Knisley@dom.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*www.ferc.gov*) under the ''e-Filing'' link. 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.

Dated: August 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19526 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Attendance at the Entergy Regional State Committee Working Group and Stakeholder Meeting

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meeting noted below. Their attendance is part of the Commission's ongoing outreach efforts.

Entergy Regional State Committee Working Group and Stakeholder Meeting

August 8, 2012 (9 a.m.–3 p.m.)

This meeting will be held at the Pan American Life Center, 601 Poydras Street, New Orleans, LA 70130.

The discussions may address matters at issue in the following proceedings:

Docket No. OA07–32	Entergy Services, Inc.
Docket No. EL00–66	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL01–88	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL07–52	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL08–60	Ameren Services Co. v. Entergy Services, Inc.
Docket No. EL09–43	Arkansas Public Service Commission v. Entergy Services, Inc.
Docket No. EL09–50	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL09–61	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL10–55	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL10–65	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL11–34	Midwest Independent System Transmission Operator, Inc.
Docket No. EL11–63	Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. ER05–1065	Entergy Services, Inc.
Docket No. ER07–682	Entergy Services, Inc.
Docket No. ER07–956	Entergy Services, Inc.
Docket No. ER08–1056	Entergy Services, Inc.
Docket No. ER09–833	Entergy Services, Inc.
Docket No. ER09–1224	Entergy Services, Inc.
Docket No. ER10–794	Entergy Services, Inc.
Docket No. ER10–1350	Entergy Services, Inc.
Docket No. ER10–1676	Entergy Services, Inc.
Docket No. ER10–2001	Entergy Arkansas, Inc.
Docket No. ER10–3357	Entergy Arkansas, Inc.
Docket No. ER11–2131	Entergy Arkansas, Inc.
Docket No. ER11–2132	Entergy Gulf States, Louisiana, LLC
Docket No. ER11–2133	Entergy Gulf States, Louisiana, LLC
Docket No. ER11–2134	Entergy Mississippi, Inc.
Docket No. ER11–2135	Entergy New Orleans, Inc.
Docket No. ER11–2136	Entergy Texas, Inc.
Docket No. ER11–3156	Entergy Arkansas, Inc.
Docket No. ER11–3657	Entergy Arkansas, Inc.
Docket No. ER12–480	Midwest Independent Transmission System Operator, Inc.

These meetings are open to the public.

For more information, contact Peter Nagler, Office of Energy Market Regulation, Federal Energy Regulatory

Commission at (202) 502–6083 or *peter.nagler@ferc.gov.*

Dated: August 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–19528 Filed 8–8–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID Numbers EPA–HQ–OECA–2012–0496–0500, 0502, 0503, 0505, 0506, 0517–0519, 0524–0535; FRL–9714–2]

Agency Information Collection Activities: Request for Comments on Twenty-Four Proposed Information Collection Requests

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following twenty-four existing, approved, continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB) for the purpose of renewing the ICRs. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described under **SUPPLEMENTARY INFORMATION**.

DATES: Comments must be submitted on or before October 9, 2012.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier service. Follow the detailed instructions as provided under **SUPPLEMENTARY INFORMATION**, section A.

FOR FURTHER INFORMATION CONTACT: The contact individuals for each ICR are listed under **SUPPLEMENTARY INFORMATION**, section II. C.

SUPPLEMENTARY INFORMATION:

I. Submitting Comments

A. How can I access the docket and/or submit comments?

1. Docket Access Instructions

EPA has established a public docket for the ICRs listed in the **SUPPLEMENTARY INFORMATION**, section II. B. The docket is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC), in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center (ECDIC) docket is (202) 566–1752.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified in this document.

2. Instructions for Submitting Comments

Submit your comments by one of the following methods:

(a) *Electronic Submission:* Access *http://www.regulations.gov* and follow the on-line instructions for submitting comments.

(b) *Email: docket.oeca@epa.gov*.

(c) *Fax:* (202) 566–1511.

(d) *Mail:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail code: 2201T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

(e) *Hand Delivery:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Deliveries are only accepted during the Docket Center's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Direct your comments to the specific docket listed in **SUPPLEMENTARY INFORMATION**, section II. B, and reference the OMB Control Number for the ICR. It is EPA's policy that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *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*.

B. What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA is soliciting comments and information to enable it to:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

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

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

C. What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing comments:

(1) Explain your views as clearly as possible and provide specific examples.

(2) Describe any assumptions that you used.

(3) Provide copies of any technical information and/or data you used that support your views.

(4) If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

(5) Offer alternative ways to improve the collection activity.

(6) Make sure to submit your comments by the deadline identified under **DATES**.

(7) To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. ICRs To Be Renewed

A. For All ICRs

The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICRs listed in this notice. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of the PRA.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions to; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The listed ICRs address Clean Air Act information collection requirements in standards (i.e., regulations) which have mandatory recordkeeping and reporting requirements. Records collected under the New Source Performance Standards (NSPS) must be retained by the owner or operator for at least two years and the records collected under the National Emission Standards for Hazardous Air Pollutants (NESHAP) must be retained by the owner or operator for at least five years. In general, the required collections consist of emissions data and other information deemed not to be private.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis as required by the Clean Air Act.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the Agency displays a currently valid OMB control number. The OMB control numbers for EPA's regulations under Title 40 of the Code of Federal Regulations are published in the **Federal Register**, or on the related collection instrument or form. The display of OMB control numbers for certain EPA regulations is consolidated at 40 CFR part 9.

B. What information collection activity or ICR does this apply to?

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that EPA is planning to submit the following twenty-four Information Collection Requests (ICR) to the Office of Management and Budget (OMB):

(1) *Docket ID Number:* EPA–HQ–OECA–2012–0518

Title: NESHAP for Metal Furniture Surface Coating (40 CFR Part 63, Subpart RRRR).

ICR Numbers: EPA ICR Number 1952.05, OMB Control Number 2060–0518.

ICR Status: This ICR is scheduled to expire on October 31, 2012.

(2) *Docket ID Number:* EPA–HQ–OECA–2012–0526.

Title: NESHAP for Aluminum, Copper and Other Non-Ferrous Metals Foundries (40 CFR Part 63, Subpart ZZZZZZ).

ICR Numbers: EPA ICR Number 2332.03, OMB Control Number 2060–0630.

ICR Status: This ICR is scheduled to expire on October 31, 2012.

(3) *Docket ID Number:* EPA–HQ–OECA–2012–0530.

Title: NSPS for Metal Furniture Coating (40 CFR Part 60, Subpart EE).

ICR Numbers: EPA ICR Number 0649.11, OMB Control Number 2060–0106.

ICR Status: This ICR is scheduled to expire on November 30, 2012.

(4) *Docket ID Number:* EPA–HQ–OECA–2012–0529.

Title: NESHAP for Mercury (40 CFR Part 61, Subpart E).

ICR Numbers: EPA ICR Number 0113.11, OMB Control Number 2060–0097.

ICR Status: This ICR is scheduled to expire on November 30, 2012.

(5) *Docket ID Number:* EPA–HQ–OECA–2012–0505.

Title: NESHAP for Secondary Aluminum Production (40 CFR Part 63, Subpart RRR).

ICR Numbers: EPA ICR Number 1894.07, OMB Control Number 2060–0433.

ICR Status: This ICR is scheduled to expire on November 30, 2012.

(6) *Docket ID Number:* EPA–HQ–OECA–2012–0532.

Title: NSPS for Beverage Can Surface Coating (40 CFR Part 60, Subpart WW).

ICR Numbers: EPA ICR Number 0663.11, OMB Control Number 2060–0001.

ICR Status: This ICR is scheduled to expire on December 31, 2012.

(7) *Docket ID Number:* EPA–HQ–OECA–2012–0517.

Title: NSPS for Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 (40 CFR Part 60, Subpart BBBB).

ICR Numbers: EPA ICR Number 1901.05, OMB Control Number 2060–0424.

ICR Status: This ICR is scheduled to expire on December 31, 2012.

(8) *Docket ID Number:* EPA–HQ–OECA–2012–0531.

Title: NSPS for Surface Coating of Large Appliance (40 CFR Part 60, Subpart SS).

ICR Numbers: EPA ICR Number 0659.12, OMB Control Number 2060–0108.

ICR Status: This ICR is scheduled to expire on December 31, 2012.

(9) *Docket ID Number:* EPA–HQ–OECA–2012–0528.

Title: NSPS for Synthetic Fiber Production Facilities (40 CFR Part 60, Subpart HHH).

ICR Numbers: EPA ICR Number 1156.12, OMB Control Number 2060–0059.

ICR Status: This ICR is scheduled to expire on December 31, 2012.

(10) *Docket ID Number:* EPA–HQ–OECA–2012–0535.

Title: NSPS for Secondary Lead Smelters (40 CFR Part 60, Subpart L).

ICR Numbers: EPA ICR Number 1128.10, OMB Control Number 2060–0080.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(11) *Docket ID Number:* EPA–HQ–OECA–2012–0506.

Title: NSPS for Small Municipal Waste Combustors (40 CFR Part 60, Subpart AAAA).

ICR Numbers: EPA ICR Number 1900.05, OMB Control Number 2060–0423.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(12) *Docket ID Number:* EPA–HQ–OECA–2012–0524.

Title: NSPS for Stationary Combustion Turbines (40 CFR Part 60, Subpart KKKK).

ICR Numbers: EPA ICR Number 2177.05, OMB Control Number 2060–0582.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(13) *Docket ID Number:* EPA–HQ–OECA–2012–0533.

Title: NSPS for the Phosphate Fertilizer Industry (40 CFR Part 60, Subparts T, U, V, W and X).

ICR Numbers: EPA ICR Number 1061.12, OMB Control Number 2060–0037.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(14) *Docket ID Number:* EPA–HQ–OECA–2012–0497.

Title: NSPS for Fossil Fuel Fired Steam Generating Units (40 CFR Part 60, Subpart D).

ICR Numbers: EPA ICR Number 1052.10, OMB Control Number 2060–0026.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(15) *Docket ID Number:* EPA–HQ–OECA–2012–0500.

Title: NESHAP for the Secondary Lead Smelter Industry (40 CFR Part 63, Subpart X).

ICR Numbers: EPA ICR Number 1686.10, OMB Control Number 2060–0296.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(16) *Docket ID Number:* EPA–HQ–OECA–2012–0499.

Title: NSPS for Industrial/Commercial/Institutional Steam Generating Units (40 CFR Part 60, Subpart Db).

ICR Numbers: EPA ICR Number 1088.13, OMB Control Number 2060–0072.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(17) *Docket ID Number:* EPA–HQ–OECA–2012–0502.

Title: NSPS for Hospital/Medical/Infectious Waste Incinerators (40 CFR Part 60, Subpart Ec).

ICR Numbers: EPA ICR Number 1730.09, OMB Control Number 2060–0363.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(18) *Docket ID Number:* EPA–HQ–OECA–2012–0534.

Title: NSPS for Surface Coating of Plastic Parts for Business Machines (40 CFR Part 60, Subpart TTT).

ICR Numbers: EPA ICR Number 1093.10, OMB Control Number 2060–0162.

ICR Status: This ICR is scheduled to expire on January 31, 2013.

(19) *Docket ID Number:* EPA–HQ–OECA–2012–0498.

Title: NSPS for Coal Preparation and Processing Plants (40 CFR Part 60, Subpart Y).

ICR Numbers: EPA ICR Number 1062.13, OMB Control Number 2060–0122.

ICR Status: This ICR is scheduled to expire on February 28, 2013.

(20) *Docket ID Number:* EPA–HQ–OECA–2012–0503.

Title: Emission Guidelines for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 (40 CFR Part 60, Subpart Cb).

ICR Numbers: EPA ICR Number 1847.06, OMB Control Number 2060–0390.

ICR Status: This ICR is scheduled to expire on February 28, 2013.

(21) *Docket ID Number:* EPA–HQ–OECA–2012–0519.

Title: NESHAP for Miscellaneous Organic Chemical Manufacturing (40 CFR Part 63, Subpart FFFF).

ICR Numbers: EPA ICR Number 1969.05, OMB Control Number 2060–0533.

ICR Status: This ICR is scheduled to expire on February 28, 2013.

(22) *Docket ID Number:* EPA–HQ–OECA–2012–0527.

Title: NESHAP for Paints and Allied Products Manufacturing Area Source Category (40 CFR Part 63, Subpart CCCCCCC).

ICR Numbers: EPA ICR Number 2348.03, OMB Control Number 2060–0633.

ICR Status: This ICR is scheduled to expire on February 28, 2013.

(23) *Docket ID Number:* EPA–HQ–OECA–2012–0525.

Title: NESHAP for Chemical Manufacturing Area Sources (40 CFR Part 63, Subpart VVVVVV).

ICR Numbers: EPA ICR Number 2323.04, OMB Control Number 2060–0621.

ICR Status: This ICR is scheduled to expire on February 28, 2013.

(24) *Docket ID Number:* EPA–HQ–OECA–2012–0496.

Title: NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (40 CFR Part 63, Subpart AAAAAAA).

ICR Numbers: EPA ICR Number 2352.03, OMB Control Number 2060–0634.

ICR Status: This ICR is scheduled to expire on February 28, 2013.

C. Contact Individuals for ICRs

(1) NESHAP for Metal Furniture Surface Coating (40 CFR Part 63, Subpart RRRR); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1952.05; OMB Control Number 2060–0518; expiration date October 31, 2012.

(2) NESHAP for Aluminum, Copper and Other Non-Ferrous Metals Foundries (40 CFR Part 63, Subpart ZZZZZZ); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 2332.03; OMB Control Number 2060–0630; expiration date October 31, 2012.

(3) NSPS for Metal Furniture Coating (40 CFR Part 60, Subpart EE); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 0649.11; OMB Control Number 2060–0106; expiration date November 30, 2012.

(4) NESHAP for Mercury (40 CFR Part 61, Subpart E); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 0113.11; OMB Control Number 2060–0097; expiration date November 30, 2012.

(5) NESHAP for Secondary Aluminum Production (40 CFR Part 63, Subpart RRR); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1894.07; OMB Control Number 2060–0433; expiration date November 30, 2012.

(6) NSPS for Beverage Can Surface Coating (40 CFR Part 60, Subpart WW); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 0663.11; OMB Control Number 2060–0001; expiration date December 31, 2012.

(7) NSPS for Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 (40 CFR Part 60, Subpart BBBB); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1901.05; OMB Control Number 2060–0424; expiration date December 31, 2012.

(8) NSPS for Surface Coating of Large Appliance (40 CFR Part 60, Subpart SS); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 0659.12; OMB Control Number 2060–0108; expiration date December 31, 2012.

(9) NSPS for Synthetic Fiber Production Facilities (40 CFR Part 60, Subpart HHH); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1156.12; OMB Control Number 2060–0059; expiration date December 31, 2012.

(10) NSPS for Secondary Lead Smelters (40 CFR Part 60, Subpart L); Learia Williams of the Office of Compliance at (202) 564–4113 or via

Email to: *williams.learia@epa.gov*; EPA ICR Number 1128.10; OMB Control Number 2060–0080; expiration date January 31, 2013.

(11) NSPS for Small Municipal Waste Combustors (40 CFR Part 60, Subpart AAAA); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1900.05; OMB Control Number 2060–0423; expiration date January 31, 2013.

(12) NSPS for Stationary Combustion Turbines (40 CFR Part 60, Subpart KKKK); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 2177.05; OMB Control Number 2060–0582; expiration date January 31, 2013.

(13) NSPS for the Phosphate Fertilizer Industry (40 CFR Part 60, Subparts T, U, V, W and X); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1061.12; OMB Control Number 2060–0037; expiration date January 31, 2013.

(14) NSPS for Fossil Fuel Fired Steam Generating Units (40 CFR Part 60, Subpart D); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1052.10; OMB Control Number 2060–0026; expiration date January 31, 2013.

(15) NESHAP for the Secondary Lead Smelter Industry (40 CFR Part 63, Subpart X); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1686.10; OMB Control Number 2060–0296; expiration date January 31, 2013.

(16) NSPS for Industrial/Commercial/Institutional Steam Generating Units (40 CFR Part 60, Subpart Db); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1088.13; OMB Control Number 2060–0072; expiration date January 31, 2013.

(17) NSPS for Hospital/Medical/Infectious Waste Incinerators (40 CFR Part 60, Subpart Ec); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1730.09; OMB Control Number 2060–0363; expiration date January 31, 2013.

(18) NSPS for Surface Coating of Plastic Parts for Business Machines (40 CFR Part 60, Subpart TTT); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1093.10; OMB Control Number 2060–0162; expiration date January 31, 2013.

(19) NSPS for Coal Preparation and Processing Plants (40 CFR Part 60, Subpart Y); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1062.13; OMB Control Number 2060–0122; expiration date February 28, 2013.

(20) Emission Guidelines for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 (40 CFR Part 60, Subpart Cb); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1847.06; OMB Control Number 2060–0390; expiration date February 28, 2013.

(21) NESHAP for Miscellaneous Organic Chemical Manufacturing (40 CFR Part 63, Subpart FFFF); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 1969.05; OMB Control Number 2060–0533; expiration date February 28, 2013.

(22) NESHAP for Paints and Allied Products Manufacturing Area Source Category (40 CFR Part 63, Subpart CCCCCCC); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 2348.03; OMB Control Number 2060–0633; expiration date February 28, 2013.

(23) NESHAP for Chemical Manufacturing Area Sources (40 CFR Part 63, Subpart VVVVVV); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 2323.04; OMB Control Number 2060–0621; expiration date February 28, 2013.

(24) NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (40 CFR Part 63, Subpart AAAAAAA); Learia Williams of the Office of Compliance at (202) 564–4113 or via Email to: *williams.learia@epa.gov*; EPA ICR Number 2352.03; OMB Control Number 2060–0634; expiration date February 28, 2013.

D. Information for Individual ICRs

(1) NESHAP for Metal Furniture Surface Coating (40 CFR Part 63, Subpart RRRR); Docket ID Number: EPA–HQ–OECA–2012–0518; EPA ICR Number 1952.05; OMB Control Number 2060–0518; expiration date October 31, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of facilities that perform metal furniture surface coating operations.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart RRRR.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 109 hours per response.

Respondents/Affected Entities: Metal furniture surface coating facilities

Estimated Number of Respondents: 583

Frequency of Response: Initially, occasionally and semiannually

Estimated Total Annual Hour Burden: 190,408

Estimated Total Annual Cost: $16,826,397, which includes $16,126,797 in labor costs, no capital/startup costs, and $699,600 in operating and maintenance costs.

(2) NESHAP for Aluminum, Copper and Other Non-Ferrous Metals Foundries (40 CFR Part 63, Subpart ZZZZZZ); Docket ID Number: EPA–HQ–OECA–2012–0526; EPA ICR Number 2332.03; OMB Control Number 2060–0630; expiration date October 31, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of aluminum, copper, or other non-ferrous metal foundries.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart ZZZZZZ.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is

estimated to average approximately 17 hours per response.

Respondents/Affected Entities: Aluminum, copper and other non-ferrous metal foundries

Estimated Number of Respondents: 318

Frequency of Response: Initially and occasionally

Estimated Total Annual Hour Burden: 7,160

Estimated Total Annual Cost: $408,855, which includes $408,855 in labor costs, no capital/startup costs, and no operating and maintenance costs.

(3) NSPS for Metal Furniture Coating (40 CFR Part 60, Subpart EE); Docket ID Number EPA–HQ–OECA–2012–0530; EPA ICR Number 0649.11; OMB Control Number 2060–0106; expiration date November 30, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of metal furniture surface coating facilities.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart EE.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 58 hours per response.

Respondents/Affected Entities: Metal furniture surface coating facilities

Estimated Number of Respondents: 400

Frequency of Response: Initially, occasionally and semiannually

Estimated Total Annual Hour Burden: 56,074

Estimated Total Annual Cost: $5,589,248, which includes $4,749,248 in labor costs, no capital/startup costs, and $840,000 in operating and maintenance costs.

(4) NESHAP for Mercury (40 CFR Part 61, Subpart E); Docket ID Number: EPA–HQ–OECA–2012–0529; EPA ICR Number 0113.11; OMB Control Number 2060–0097; expiration date November 30, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of stationary sources which process mercury ore to recover mercury, use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and incinerate or dry wastewater treatment plant sludge.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 61, subpart E.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 160 hours per response.

Respondents/Affected Entities: Stationary sources which process mercury ore to recover mercury, use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and incinerate or dry wastewater treatment plant sludge

Estimated Number of Respondents: 107

Frequency of Response: Initially, semiannually and annually

Estimated Total Annual Hour Burden: 20,490

Estimated Total Annual Cost: $1,735,421, which includes $1,735,421 in labor costs, no capital/startup costs, and no operating and maintenance costs.

(5) NESHAP for Secondary Aluminum Production (40 CFR Part 63, Subpart RRR); Docket ID Number: EPA–HQ–OECA–2012–0505; EPA ICR Number 1894.07; OMB Control Number 2060–0433; expiration date November 30, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of secondary aluminum production plants.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart RRR.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 29 hours per response.

Respondents/Affected Entities: Secondary aluminum production plants

Estimated Number of Respondents: 1,624

Frequency of Response: Initially, occasionally and semiannually

Estimated Total Annual Hour Burden: 93,725

Estimated Total Annual Cost: $8,163,900, which includes $7,938,150 in labor costs, $84,000 in capital/startup costs, and $141,750 in operating and maintenance costs.

(6) NSPS for Beverage Can Surface Coating (40 CFR Part 60, Subpart WW); Docket ID Number EPA–HQ–OECA–2012–0532; EPA ICR Number 0663.11; OMB Control Number 2060–0001; expiration date December 31, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of beverage can surface coating facilities.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart WW.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 43 hours per response.

Respondents/Affected Entities: Beverage can surface coating facilities

Estimated Number of Respondents: 48

Frequency of Response: Initially, occasionally and semiannually

Estimated Total Annual Hour Burden: 5,134

Estimated Total Annual Cost: $515,230, which includes $414,430 in labor costs, no capital/startup costs, and $100,800 in operating and maintenance costs.

(7) NSPS for Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on

or Before August 30, 1999 (40 CFR Part 60, Subpart BBBB); Docket ID Number EPA–HQ–OECA–2012–0517; EPA ICR Number 1901.05, OMB Control Number 2060–0424; expiration date December 31, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of small municipal waste combustion units.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart BBBB.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 1,709 hours per response.

Respondents/Affected Entities: Owners and operators of small municipal waste combustion units

Estimated Number of Respondents: 23

Frequency of Response: Initially, occasionally, semiannually and annually

Estimated Total Annual Hour Burden: 100,854

Estimated Total Annual Cost: $9,578,726, which includes $8,541,926 in labor costs, no capital/startup costs, and $1,036,800 in operating and maintenance costs.

(8) NSPS for Surface Coating of Large Appliance (40 CFR Part 60, Subpart SS); Docket ID Number EPA–HQ–OECA–2012–0531; EPA ICR Number 0659.12, OMB Control Number 2060–0108; expiration date December 31, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators for surface coating of large appliance facilities.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart SS.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 53 hours per response.

Respondents/Affected Entities: Surface coating of large appliance facilities

Estimated Number of Respondents: 72

Frequency of Response: Occasionally and semiannually

Estimated Total Annual Hour Burden: 7,659

Estimated Total Annual Cost: $657,087, which includes $648,687 in labor costs, no capital/startup costs, $8,400 in operating and maintenance costs.

(9) NSPS for Synthetic Fiber Production Facilities (40 CFR Part 60, Subpart HHH); Docket ID Number EPA–HQ–OECA–2012–0528; EPA ICR Number 1156.12; OMB Control Number 2060–0059; expiration date December 31, 2012.

Affected Entities: Entities potentially affected by this action are the owners or operators of synthetic fiber production facilities.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart HHH.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 34 hours per response.

Respondents/Affected Entities: Synthetic fiber production facilities

Estimated Number of Respondents: 22

Frequency of Response: Occasionally, quarterly and semiannually

Estimated Total Annual Hour Burden: 1,859

Estimated Total Annual Cost: $315,119, which includes $150,119 in labor costs, no capital/startup costs, and $165,000 in operating and maintenance costs.

(10) NSPS for Secondary Lead Smelters (40 CFR Part 60, Subpart L); Docket ID Number EPA–HQ–OECA–2012–0535; EPA ICR Number 1128.10, OMB Control Number 2060–0080; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of secondary lead smelting facilities.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart L.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 2 hours per response.

Respondents/Affected Entities: Secondary lead smelting facilities

Estimated Number of Respondents: 25

Frequency of Response: Initially and occasionally

Estimated Total Annual Hour Burden: 38

Estimated Total Annual Cost: $3,538, which includes $3,538 in labor costs, no capital/startup costs, and no operating and maintenance costs.

(11) NSPS for Small Municipal Waste Combustors (40 CFR Part 60, Subpart AAAA); Docket ID Number EPA–HQ–OECA–2012–0506; EPA ICR Number 1900.05, OMB Control Number 2060–0423; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of small municipal waste combustors.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart AAAA.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 1,108 hours per response.

Respondents/Affected Entities: Owners and operators of small municipal waste combustors

Estimated Number of Respondents: 2

Frequency of Response: Initially, occasionally, semiannually and annually

Estimated Total Annual Hour Burden: 9,975

Estimated Total Annual Cost: $1,087,204, which includes $938,068 in labor costs, $66,000 in capital/startup costs, and $83,136 in operating and maintenance costs.

(12) NSPS for Stationary Combustion Turbines (40 CFR Part 60, Subpart KKKK); Docket ID Number EPA–HQ–OECA–2012–0524; EPA ICR Number 2177.05, OMB Control Number 2060–0582; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of stationary combustion turbines.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart KKKK.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 37 hours per response.

Respondents/Affected Entities: Owners and operators of stationary combustion turbines

Estimated Number of Respondents: 307

Frequency of Response: Semiannually

Estimated Total Annual Hour Burden: 32,075

Estimated Total Annual Cost: $2,983,850, which includes $2,983,850 in labor costs, no capital/startup costs, and no operating and maintenance costs.

(13) NSPS for Phosphate Fertilizer Industry (40 CFR Part 60, Subparts T,U,V,W and X); Docket ID Number EPA–HQ–OECA–2012–0533; EPA ICR Number 1061.12, OMB Control Number 2060–0037; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of wet-process phosphoric acid plants, superphosphoric acid plants, granular diammonium phosphate plants, triple superphosphate plants and granular triple superphosphate storage facilities.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subparts T, U, V, W and X.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 46 hours per response.

Respondents/Affected Entities: Wet-process phosphoric acid plants, superphosphoric acid plants, granular diammonium phosphate plants, triple superphosphate plants and granular triple superphosphate storage facilities

Estimated Number of Respondents: 13

Frequency of Response: Initially, occasionally and semiannually

Estimated Total Annual Hour Burden: 1,194

Estimated Total Annual Cost: $437,702, which includes $117,512 in labor costs, no capital/startup costs, and $320,190 in operating and maintenance costs.

(14) NSPS for Fossil Fuel Fired Stream Generating Units (40 CFR Part 60, Subpart D); Docket ID Number EPA–HQ–OECA–2012–0497; EPA ICR Number 1052.10; OMB Control Number 2060–0026; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of fossil fuel fired steam generating units.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart D.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 47 hours per response.

Respondents/Affected Entities: Owners and operators of fossil fueled fired steam generating units

Estimated Number of Respondents: 660

Frequency of Response: Initially, occasionally and semiannually

Estimated Total Annual Hour Burden: 61,545

Estimated Total Annual Cost: $15,688,147, which includes $5,788,147 in labor costs, no capital/startup costs, and $9,900,000 in operating and maintenance costs.

(15) NESHAP for Secondary Lead Smelter Industry (40 CFR Part 63, Subpart X); Docket ID Number: EPA–HQ–OECA–2012–0500; EPA ICR Number 1686.10; OMB Control Number 2060–0296; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of secondary lead smelting facilities.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart X.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 214 hours per response.

Respondents/Affected Entities: Owners or operations of industrial, commercial or institutional steam generating units

Estimated Number of Respondents: 1,500

Frequency of Response: Initially, occasionally, quarterly and semiannually

Estimated Total Annual Hour Burden: 771,889

Estimated Total Annual Cost: $1,379,153, which includes $788,873 in labor costs, $105,800 in capital/startup costs, and $484,480 in operating and maintenance costs.

(16) NSPS for Industrial/Commercial/Institutional Steam Generating Units (40 CFR Part 60, Subpart Db); Docket ID Number EPA–HQ–OECA–2012–0499; EPA ICR Number 1088.13; OMB Control Number 2060–0072; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of industrial, commercial or institutional steam generating units.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart Db.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 47 hours per response.

Respondents/Affected Entities: Owners and operators of fossil fueled fired steam generating units.

Estimated Number of Respondents: 660

Frequency of Response: Initially, occasionally and semiannually

Estimated Total Annual Hour Burden: 61,545

Estimated Total Annual Cost: $94,838,557, which includes $63,338,557 in labor costs, $9,000,000 in capital/startup costs, and $22,500,000 in operating and maintenance costs.

(17) NSPS for Hospital/Medical/Infectious Waste Incinerators (40 CFR Part 60, Subpart Ec); Docket ID Number EPA–HQ–OECA–2012–0502; EPA ICR Number 1730.09; OMB Control Number 2060–0363; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of hospital, medical or infectious waste incinerators.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart Ec.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 113 hours per response.

Respondents/Affected Entities: Owners and operators of hospital, medical or infectious waste incinerators

Estimated Number of Respondents: 3

Frequency of Response: Initially, occasionally, semiannually and annually

Estimated Total Annual Hour Burden: 2,705

Estimated Total Annual Cost: $356,403, which includes $102,553 in labor costs, $137,658 in capital/startup costs, and $116,192 in operating and maintenance costs.

(18) NSPS for Surface Coating of Plastic Parts for Business Machines (40 CFR Part 60, Subpart TTT); Docket ID Number EPA–HQ–OECA–2012–0534; EPA ICR Number 1093.10; OMB Control Number 2060–0162; expiration date January 31, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of facilities that apply coatings to plastic parts for use in the manufacture of business machines.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart TTT.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 35 hours per response.

Respondents/Affected Entities: Owners or operators of facilities that apply coatings to plastic parts for use in the manufacture of business machines

Estimated Number of Respondents: 10

Frequency of Response: Quarterly and semiannually

Estimated Total Annual Hour Burden: 978

Estimated Total Annual Cost: $92,296, which includes $92,296 in labor costs, no capital/startup costs, and no operating and maintenance costs.

(19) NSPS for Coal Preparation and Processing Plants (40 CFR Part 60, Subpart Y); Docket ID Number EPA–HQ–OECA–2012–0498; EPA ICR Number 1062.13; OMB Control Number 2060–0122; expiration date February 28, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of coal preparation and processing plants.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart Y.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 21 hours per response.

Respondents/Affected Entities: Coal preparation and processing plants.

Estimated Number of Respondents: 1,027

Frequency of Response: Initially, semiannually and annually

Estimated Total Annual Hour Burden: 38,783

Estimated Total Annual Cost: $3,314,442, which includes $2,601,624 in labor costs, $674,528 in capital/startup costs, and $38,290 in operating and maintenance costs.

(20) Emission Guidelines for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 (40 CFR Part 60, Subpart Cb); Docket ID Number EPA–HQ–OECA–2012–0503; EPA ICR Number 1847.06; OMB Control Number 2060–0390; expiration date February 28, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of large municipal waste combustors.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 62, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart Cb.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the

operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 1,725 hours per response.

Respondents/Affected Entities: Owners or operators of large municipal waste combustors

Estimated Number of Respondents: 81

Frequency of Response: Semiannually and annually

Estimated Total Annual Hour Burden: 394,954

Estimated Total Annual Cost: $50,457,165, which includes $48,901,965 in labor costs, no capital/startup costs, and $1,555,200 in operating and maintenance costs.

(21) NESHAP for Miscellaneous Organic Chemical Manufacturing (40 CFR Part 63, Subpart FFFF); Docket ID Number: EPA–HQ–OECA–2012–0519; EPA ICR Number 1969.05; OMB Control Number 2060–0533; expiration date February 28, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of miscellaneous organic chemical manufacturing facilities.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart FFFF.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 254 hours per response.

Respondents/Affected Entities: Miscellaneous organic chemical manufacturing facilities

Estimated Number of Respondents: 257

Frequency of Response: Initially, occasionally and semiannually

Estimated Total Annual Hour Burden: 416,830

Estimated Total Annual Cost: $41,436,793, which includes $35,303,884 in labor costs, $670,256 in capital/startup costs, and $5,462,653 in operating and maintenance costs.

(22) NESHAP for Paints and Allied Products Manufacturing Area Source Category (40 CFR Part 63, Subpart CCCCCCC); Docket ID Number: EPA–HQ–OECA–2012–0527; EPA ICR Number 2348.03; OMB Control Number 2060–0633; expiration date February 28, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of paints and allied products manufacturing facilities.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart CCCCCCC.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 3 hours per response.

Respondents/Affected Entities: Paint and allied product manufacturing facilities

Estimated Number of Respondents: 2,190

Frequency of Response: Initially and annually

Estimated Total Annual Hour Burden: 4,618

Estimated Total Annual Cost: $880,818, which includes $880,818 in labor costs, no capital/startup costs, and no operating and maintenance costs.

(23) NESHAP for Chemical Manufacturing Area Sources (40 CFR Part 63, Subpart VVVVVV); Docket ID Number: EPA–HQ–OECA–2012–0525; EPA ICR Number 2323.04; OMB Control Number 2060–0621; expiration date February 28, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of chemical manufacturing facilities.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart VVVVVV.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 9 hours per response.

Respondents/Affected Entities: Chemical manufacturing facilities

Estimated Number of Respondents: 479

Frequency of Response: Semiannually

Estimated Total Annual Hour Burden: 10,586

Estimated Total Annual Cost: $905,135, which includes $806,864 in labor costs, $69,484 in capital/startup costs, and $28,787 in operating and maintenance costs.

(24) NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (40 CFR Part 63, Subpart AAAAAAA); Docket ID Number: EPA–HQ–OECA–2012–0496; EPA ICR Number 2352.03, OMB Control Number 2060–0634; expiration date February 28, 2013.

Affected Entities: Entities potentially affected by this action are the owners or operators of asphalt processing and roofing manufacturing facilities.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart AAAAAAA.

Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 28 hours per response.

Respondents/Affected Entities: Asphalt processing and asphalt roofing manufacturing facilities

Estimated Number of Respondents: 75

Frequency of Response: Semiannually and annually

Estimated Total Annual Hour Burden: 4,147

Estimated Total Annual Cost: $713,081, which includes $672,254 in

labor costs, $5,400 in capital/startup costs, and $35,427 in operating and maintenance costs.

EPA will consider any comments received and may amend any of the above ICRs, as appropriate. Then the final ICR packages will be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue one or more **Federal Register** notices pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR(s) to OMB and the opportunity to submit additional comments to OMB. If you have any questions about any of the above ICRs or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: August 1, 2012.

Lisa C. Lund,

Director, Office of Compliance.

[FR Doc. 2012–19422 Filed 8–7–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2011–0966; FRL–9359–3]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR, entitled: ''Tier 1 Screening of Certain Chemicals Under the Endocrine Disruptor Screening Program (EDSP)'' and identified by EPA ICR No. 2249.03 and OMB Control No. 2070–0176. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection.

DATES: Comments must be received on or before October 9, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2011–0966, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2011–0966. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2011–0966. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: William Wooge, Office of Science Coordination and Policy (OSCP) (7203M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8476; fax number: (202) 564–8482; email address: *wooge.william@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of PRA (44 U.S.C. 3501 *et seq.*), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline identified under **DATES**.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

III. What information collection activity or ICR does this action apply to?

Affected entities: Entities potentially affected by this ICR are those individuals and companies that receive an EDSP test order issued by the Agency. Under section 408(p)(5)(A) of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a(p)(5)(A)), EPA ''shall issue'' EDSP test orders ''to a registrant of a substance for which testing is required * * * or to a person who manufactures or imports a substance for which testing is required.'' Using the North American Industrial Classification System (NAICS) codes, the Agency has determined that potential respondents to the information collection covered in this ICR may include, but is not limited to: Chemical manufacturers and processors (NAICS code 325); pesticide, fertilizer, and other agricultural chemical manufacturing (NAICS code 3253); producers & formulators of pesticide products (NAICS code 32532); producers of antifouling paints (NAICS code 32551); producers of antimicrobial pesticides (NAICS code 32561); producers of nitrogen stabilizers (NAICS code 32531); and producers of wood preservatives (NAICS code 32519).

Title: Tier 1 Screening of Certain Chemicals Under the Endocrine Disruptor Screening Program (EDSP).

ICR number: EPA ICR No. 2249.03.

OMB control number: OMB Control No. 2070–0176.

ICR status: The existing ICR approval is currently scheduled to expire on October 31, 2012. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information covered by the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This is a renewal of an existing ICR covering the information collection activities associated with Tier 1 screening of chemicals under EPA's EDSP. The EDSP is established under FFDCA section 408(p), which requires EPA to develop a chemical screening program using appropriate validated test systems and other scientifically relevant information to determine whether certain substances may have hormonal effects. The EDSP consists of a two-tiered approach to screen chemicals for potential endocrine disrupting effects. The purpose of Tier 1 screening is to identify substances that have the potential to interact with the estrogen, androgen, or thyroid hormone systems using a battery of assays. Substances that have the potential to interact with estrogen, androgen or thyroid systems may proceed to Tier 2, which is designed to identify any adverse endocrine-related effects caused by the substance, and establish a quantitative relationship between the dose and that endocrine effect. Additional information about the EDSP is available through the Agency's Web site at *http://www.epa.gov/endo*.

This ICR addresses the information collection activities for the first list of chemicals screened under Tier 1 of the EDSP, and covers the full range of information collection activities associated with the issuance of and response to Tier 1 EDSP orders issued by EPA. The first list was established in 2009, and consists of 67 pesticide active ingredients (PAIs) and pesticide inerts. As the renewal of an ongoing information collection activity approved under the PRA, this ICR addresses the paperwork burden associated with the continuation of these activities over the next three years. As such, the paperwork burdens are adjusted to reflect the planned progression associated with the information collection activities covered by the ICR.

As such, the renewal ICR does not include the proposed addendum that was issued for public comment in the **Federal Register** of November 17, 2010 (75 FR 70568) (FRL 8849–3).

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 204 and 4,833 hours, depending on the respondent category, with an estimated cost between $17,076 and $278,966. Burden is defined in 5 CFR 1320.3(b). The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 264.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 106,416 hours.

Estimated total annual costs: $6,152,254.

IV. Are there changes in the estimates from the last approval?

There is a decrease of 54,999 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's adjustment in burden estimates due to the planned progression of the collection activities associated with the first list of chemicals to be screened under the EDSP. This change is an adjustment.

V. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: July 31, 2012.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2012–19569 Filed 8–8–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2012–N–10]

Privacy Act of 1974; System of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed revision of system of records, establishment of new systems of records, and the removal of systems of records notices; request for comments.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended (Privacy Act), the Federal Housing Finance Agency (FHFA) gives notice of and requests comments on the proposed revision of one existing system of records, the establishment of four new systems of records, and the removal of three existing systems of records notices.

The revised existing system of records is ''Fraud Reporting System'' (FHFA–6). The proposed systems of records are: ''Visitor Badge, Employee and Contractor Personnel Day Pass, and Trackable Mail System'' (FHFA–17), ''Reasonable Accommodation Information System'' (FHFA–18), ''Computer Systems Activity and Access Records System'' (FHFA–19), and ''Telecommunications System'' (FHFA–20).

In addition, upon the effective date of this notice, the Office of Federal Housing Enterprise Oversight systems of records notices, ''OFHEO–10 Reasonable Accommodation Information System'' (73 FR 19236 (April 9, 2008)), ''OFHEO–08 Computer Systems Activity and Access Records System'' (71 FR 6085 (February 6, 2006)), and ''OFHEO–09 Telecommunications System'' (71 FR 39123 (July 11, 2006)) will be removed.

DATES: The effective date of the notice is September 18, 2012 unless comments necessitate otherwise. FHFA will publish a new notice if, in order to review comments, the effective date is delayed or if changes are made based on comments received. To be assured of consideration, comments must be received on or before September 10, 2012.

ADDRESSES: Submit comments, identified by ''2012–N–10,'' using only one of the following methods:

- *Email:* Comments to Alfred M. Pollard, General Counsel, may be sent by email to *RegComments@fhfa.gov.* Please include ''2012–N–10'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include ''2012–N–10'' in the subject line of the message.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/2012–N–10, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. Please note that all mail sent to the FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/2012–N–10, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. to 5 p.m.

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Stacy Easter, Privacy Act Officer, *privacy@fhfa.gov* or 202–649–3803, or David A. Lee, Senior Agency Official for Privacy, *privacy@fhfa.gov* or 202–649–3803 (not toll free numbers), Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on the revised and proposed systems of records, and will take all comments into consideration. *See* 5 U.S.C. 552a(e)(4) and (11). In addition to referencing ''Comments/2012–N–10,'' please reference the title and the system of records number your comment addresses.

All comments received will be posted without change on the FHFA Web site at *http://www.fhfa.gov,* and will include any personal information provided, such as name, address (mailing and email), and telephone numbers. In addition, copies of all comments received will be available without change for public inspection on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024, without change. To make an appointment to inspect comments, please call the Office of General Counsel at 202–649–3804.

II. Introduction

This notice satisfies the Privacy Act requirement that an agency publish a system of records notice in the **Federal Register** when there is an addition or change to an agency's systems of records. Congress has recognized that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. The Acting Director of FHFA has determined that records and information in these five systems of records are not exempt from the requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (61 FR 6427, 6435 February 20, 1996), FHFA has submitted a report describing the five systems of records covered by this notice to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget.

III. Proposed Systems of Records

The system of records ''Fraud Reporting System'' (FHFA–6) is being revised to address new records that will be collected, to update the routine uses of such records, and to make non-substantive edits.

The proposed new system ''Visitor Badge, Employee and Contractor Personnel Day Pass, and Trackable Mail System'' (FHFA–17), will contain records related to members of the public and employees and contractor personnel from other Federal agencies who visit FHFA; FHFA employees and contractor personnel who require a day pass to access FHFA facilities; and FHFA employees who pre-register or authorize visitors to enter FHFA facilities. The system also covers individuals or organizations that send or deliver trackable mail to FHFA (*e.g.,* express mail, courier mail, or other forms of

mail that are tracked from the sender to the recipient).

The other three proposed systems of records notices will revise and replace three existing systems of records notices issued by one of FHFA's predecessor agencies, the Office of Federal Housing Enterprise Oversight (OFHEO). The underlying systems remain intact. New notices, with additional information collected, and routine uses identified, are being issued to reflect that OFHEO no longer exists and that the new notices are issued by FHFA. These three proposed systems are described below.

The ''Reasonable Accommodation Information System'' (FHFA–18) will contain information related to requests for reasonable accommodation from employees, applicants, or others. This new system of records notice will replace the system of records notice issued by OFHEO, ''OFHEO–10 Reasonable Accommodation Information Systems'' (73 FR 19236 (April 9, 2008)), which will be removed on the effective date of this notice.

The ''Computer Systems Activity and Access Records System'' (FHFA–19) will contain information related to use of FHFA computer systems. This system of records notice will replace the system of records notice issued by OFHEO, ''OFHEO–08 Computer Systems Activity and Access Records Systems'' (71 FR 6085 (February 6, 2006)), which will be removed on the effective date of this notice.

The ''Telecommunications System'' (FHFA–20) will contain information related to the use of FHFA telecommunication systems. This system of records notice will replace the system of records notice issued by OFHEO, ''OFHEO–9 Telecommunications Systems'' (71 FR 39123 (July 11, 2006)), which will be removed on the effective date of this notice.

The revised and proposed systems of records notices are set out in their entirety and described in detail below.

FHFA–6

SYSTEM NAME:

Fraud Reporting System.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024; and any alternate work site utilized by employees of the Federal Housing Finance Agency or by individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information about individuals who are suspected of or have been found to have engaged in fraud or possible fraud in connection with the origination, funding, sale, purchase or insurance of a mortgage loan, or the related real estate transaction, or a financial instrument involving the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Banks (individually ''regulated entity'', and collectively, ''regulated entities''), or who are suspected of or have been found to have engaged in other financial misconduct. Such records may also include information on individuals: (a) Who have or are currently engaged in a transaction with a regulated entity; (b) who have performed or are currently performing services that relate to transactions with a regulated entity; (c) who are directors, officers, employees, agents of a regulated entity, or other institution engaged in financial transactions or mortgage services; (d) who are actual or potential victims of fraud or possible fraud; (e) who are named as possible witnesses; (f) who have or might have information about reported matters; (g) who are named as preparers of any reports; and (h) who are named as persons to be contacted by FHFA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name, address, telephone number, electronic mail address, Social Security number, name of institution(s) involved, financial information (such as account number, mortgage loan amount, amount of suspected fraud, and other loan or financial information), online profile or account information, and information pertaining to criminal prosecutions, civil actions, enforcement proceedings, and investigations resulting from or relating to the fraud or suspected fraud.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained pursuant to 12 U.S.C. 4513, 4513b, 4514, 4526 and 4642 and 12 CFR part 1233.

PURPOSE(S):

The information in this system of records will be used by FHFA in carrying out the statutory authorities of the Director to require the regulated entities to report fraud or suspected fraud involving a mortgage loan, financial instrument purchased or sold by a regulated entity, or other financial misconduct consistent with the safety and soundness responsibilities of FHFA under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended.

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, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization, including the Financial Crimes Enforcement Network and other law enforcement and government entities, as determined by FHFA to be appropriate and that are charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record

within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agencies conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA;

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To a Federal agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(13) To a regulated entity.

(14) To a federal, state, local, tribal, foreign, or international agency in response to its request for information concerning the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(15) To a Bar Association, Accountancy Board, or other federal, state, local, tribal, or foreign licensing or oversight authority; or professional association or self-regulatory authority to the extent that it performs similar functions (including the Public Company Accounting Oversight Board) for investigations or possible disciplinary action.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored in paper and electronic format.

RETRIEVABILITY:

Records may be retrieved by name, address, or other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RETENTION AND DISPOSAL:

Records are maintained in accordance with National Archives and Records Administration and FHFA retention schedules. Records are disposed of according to accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Office of General Counsel, and Divisions of Enterprise Regulation and Bank Regulation, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx*. The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx*. The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx*. The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your

electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

The information is obtained from the regulated entities and other sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information in this system is exempt from disclosure under subsections 552a(d)(5), and 552a(k)(2) of the Privacy Act.

FHFA–17

SYSTEM NAME:

Visitor Badge, Employee and Contractor Personnel Day Pass, and Trackable Mail System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public and employees/contractor personnel from other Federal agencies who visit FHFA; FHFA employees and contractor personnel who require a day pass; and FHFA employees who pre-register or authorize visitors to enter FHFA office space. The system also covers individuals or organizations that send or deliver trackable mail to FHFA (*e.g.,* express mail, courier mail, or other forms of mail that are tracked from the sender to the recipient).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name, photograph, signature, company name, the number of the printed badges issued, visitor category, phone number, facsimile number, address, electronic mail address; and location, date, and time of entry into the FHFA facility. Records may also include the following information from identification (ID) cards: Identification card number, date of birth, height, weight, color of hair and eyes, date of ID card expiration, and issuing jurisdiction. Records may also include the following information from HSPD–12 PIV cards: Name, photograph, biometric data, date of ID card expiration, agency and other information stored on the microchip. Further information contained within the system may be the name and title of the person being visited; the reason for the visit to the facility; notation of approved parking; and the name, phone number and electronic mail address of FHFA personnel requesting authorization for the visitor access. The system may maintain check-in and check-out times, current status of visitor, and ID number assigned for each visitor record.

For trackable mail, records may include package check in time, number of packages, name of employee or contractor personnel to whom the package is addressed, location of package, sender's name and address, type of package, added description (if appropriate), carrier or agent delivering the package, time and name of person to whom package is delivered, final destination within FHFA, and mail tracking number assigned to the package.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 4513(a)(2)B) and Executive Order 13231, Critical Infrastructure Protection in the Information Age (October 16, 2001).

PURPOSE(S):

The purpose of the system is to permit access to FHFA facilities by public visitors and representatives from other Federal agencies. It is also used to issue day passes for FHFA employees or contractor personnel who are not presently in possession of their Federal Government-issued ID card (*i.e.,* HSPD–12) and need to enter the workplace to perform their duties. The system is further used to record and monitor the status of trackable mail.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA;

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic format, paper form, and magnetic disk or tape. Electronic records are stored in computerized databases. Paper and magnetic disk or tape records are stored in locked file rooms, locked file cabinets, or locked safes.

RETRIEVABILITY:

Records may be retrieved by name, address, visitor ID number, trackable mail tracking number, or some other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules and FHFA Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Chief Operating Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Information is provided by visitors seeking access to FHFA facilities to meet with FHFA employees or contractor personnel, or to attend FHFA sponsored events; by FHFA employees who pre-register visitors; by FHFA employees or contractors who do not have their Federal Government-issued ID card (*i.e.,* HSPD–12) and need access to FHFA facilities; by individuals sending trackable mail; and by carriers or agents that deliver such mail.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FHFA–18

SYSTEM NAME:

Reasonable Accommodation Information System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment, employees (current and former), and any other individuals who request or receive a reasonable accommodation under Sections 501, 504, and 701 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as amended. This also includes authorized individuals or representatives (*e.g.,* family member or attorney) who file requests for reasonable accommodation on behalf of an applicant for

employment, employee, or other individual, as well as former employees who requested or received reasonable accommodation during their employment with FHFA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include requester's name, contact information (*i.e.,* address, telephone number, email address and any other information provided), or other unique identifier; requester's authorized representative's name and contact information (*i.e.,* address, telephone number, email address and any other information provided); requester's status (*i.e.,* applicant, employee, or other); request date; job(s) (occupational series, grade level, and agency component) for which a reasonable accommodation had been requested; other reasons for requesting a reasonable accommodation; information concerning the nature of any disability and the need for accommodation; and appropriate medical or other documentation provided in support of the request. Records may also include details of a reasonable accommodation request to include type(s) of accommodation requested; whether the accommodation requested was pre-employment or during employment, or for some other reason; how the requested accommodation would assist the individual in applying for a job, performing current job functions, or meeting some other need/requirement; the amount of time taken to process the request; whether the request was granted or denied and, if denied, the reason for the denial; and the sources of any assistance consulted in trying to identify possible reasonable accommodations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Rehabilitation Act of 1973 (29 U.S.C. 791); Americans with Disabilities Act, as amended; 29 CFR part 1630; Executive Orders 13163, 13164 and 13548; Equal Employment Opportunity Commission (EEOC) Policy Guidance on Executive Order 13164; and EEOC Enforcement Guidance: Application of the American with Disabilities Act (ADA) to Contingent Workers Placed by Temporary Agencies and Other Staffing Firms.

PURPOSE(S):

The purpose of the system is to allow FHFA to collect and maintain records on applicants for employment, employees (including former employees), and others who request a reasonable accommodation under Sections 501, 504, and 701 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as amended, and to In addition, the purpose of the System is to track and report to appropriate entities the processing of requests for reasonable accommodation to ensure compliance with applicable laws and regulations, and to preserve and maintain the confidentiality of medical information. Information in this system will be used to evaluate, approve, deny, and/or implement a request for reasonable accommodation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for FHFA.

(8) To FHFA employees and others, including persons, consultants, contractor personnel, entities, vendors or suppliers, employees of other government agencies, whether federal, state, or local, as necessary to make a decision on a request for accommodation or to implement the decision.

(9) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(10) To another Federal agency or commission with responsibility for labor or employment relations or other issues, including equal employment opportunity and reasonable accommodation issues, when that agency or commission has jurisdiction over reasonable accommodation.

(11) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, or Office of Special Counsel to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation.

(12) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs.

(13) To the Department of Defense for purposes of procuring assistive technologies and services through the Computer/Electronic Accommodation Program in response to a request for reasonable accommodation.

(14) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA;

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(15) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(16) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic format, paper form, and magnetic disk or tape. Electronic records are stored in computerized databases. Paper and magnetic disk or tape records are stored in locked file rooms, locked file cabinets, or locked safes.

RETRIEVABILITY:

Records may be retrieved by name, or some other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules and FHFA Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Minority and Women Inclusion, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Information is provided by applicants for employment, employees, other individuals requesting a reasonable accommodation, or their authorized representatives, as well as individuals who are responsible for processing such requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FHFA–19

SYSTEM NAME:

Computer Systems Activity and Access Records System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or by individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and contractor personnel of FHFA, members of the public, employees and contractor personnel from other Federal agencies, and individuals or organizations who provide information to FHFA via electronic mail, text message, instant message, facsimile, social media, Web site feedback forms, smart phone, laptops, desktops, tablets, or similar devices or methods.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include the name, address, telephone number, electronic mail address, instant message ID, and similar identifiers of the individual accessing FHFA information systems; the source Internet Protocol (IP) address used to access the information system, the date and time of log-on and log-off to the information system, the information resources which were accessed to include the file or page name, and a description of actions

performed by the individual; the destination IP address of the system, which may include the Uniform Resource Locator address, date and time of the connection and disconnection, and size of the transmission; keywords propagated by Internet/Intranet Web sites; technical machine data as the system may generate, such as machine-name field and media access control address, and browser type and version; electronic mail systems, including the electronic mail address of the sender and receiver of the electronic mail message, and the subject, date, content, and time of the electronic mail; user access to FHFA office automation networks, including wireless networks, as well as denials of access; information relating to mainframe/enterprise server and wireless access; and verification and authorization records, such as successful logins and failed login attempts and password changes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Computer Security Act of 1987, 40 U.S.C. 11331, and 12 U.S.C. 4513(a)(2)(B).

PURPOSE(S):

The underlying data in this system of records is used by FHFA computer systems and security employees or persons authorized to assist these employees to plan and manage computer system services and to otherwise perform their official duties. Authorized FHFA employees or contractor personnel may use the records in the system to monitor an individual's use of FHFA information systems, and to ensure compliance with the FHFA information systems guidelines and procedures, including those for wireless or remote access. Authorized FHFA employees or contractor personnel may use the records in this system to investigate improper access or use related to the computer system; to initiate disciplinary or other actions related to improper access or use; or, where the record(s) may appear to indicate a violation or potential violation of law, to refer such record(s) to the appropriate investigative office within FHFA, or law enforcement agencies for investigation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA;

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic format, paper form, and magnetic disk or tape. Electronic records are stored in computerized databases. Paper and magnetic disk, or tape records are stored in locked file rooms, locked file cabinets, or locked safes.

RETRIEVABILITY:

Records may be retrieved by name, address, email address, telephone number, IP or MAC address, or some other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules and FHFA Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Technology and Information Management, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Most records are generated internally from computer activity logs, individuals covered by the system who submit information to FHFA, and FHFA employees and contractor personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FHFA–20

SYSTEM NAME:

Telecommunications System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or by individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and contractor personnel of FHFA and other individuals who use, or are assigned FHFA telecommunications devices, including Voice over Internet Protocol (VOIP), landline, and cellular telephones; wireless devices including wireless hand-held devices; and facsimile machines. Members of the public, employees, and contractor personnel from other Federal agencies, and other individuals who provide information to FHFA via electronic mail, text message, instant message, facsimile, social media, Web site feedback forms, telephone (landline, VOIP, and cellular), or other similar methods.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name, photograph, signature, company name, telephone number, cellular number, facsimile number, BlackBerry PIN and number, home or work address, electronic mail address, instant message identification, voice recordings, pager number, and similar information. In addition, records may include information relating to the use of FHFA telecommunication devices such as, name, address, source, target, duration, and date; charges billed to telecommunication devices; assignment of telecommunication devices to individuals covered by this system and telecommunication device number; and the results of administrative inquiries to determine responsibility for the use or misuse of a telecommunication device or telecommunication resources, including the placement of local and long distance telephone calls.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Computer Security Act of 1987, 40 U.S.C. 1441, and 12 U.S.C. 4513(a)(2)(B).

PURPOSE(S):

The records in this system are maintained to facilitate management of telecommunication systems and devices; to analyze information to verify usage; to determine responsibility for use of telecommunications systems or devices including placement of specific local and long distance calls; to prevent and detect the misuse of telecommunication resources; and to serve as the basis for appropriate disciplinary action in the event those resources are being or have been misused.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA

as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA;

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic format, paper form, and magnetic disk or tape. Electronic records are stored in computerized databases. Paper and magnetic disk, or tape records are stored in locked file rooms, locked file cabinets, or locked safes.

RETRIEVABILITY:

Records may be retrieved by name, address, email address, telephone number, or some other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules and FHFA Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Technology and Information Management, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer either electronically, or by regular mail, or facsimile. Submit electronic requests at *https://publicaccesslink.fhfa.gov/palMain.aspx.* The regular mail address is: Privacy Act Officer, Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The facsimile number is: 202–649–1073. For the quickest possible handling, mark your electronic submission, letter, or facsimile and the subject line, envelope, or facsimile cover sheet ''Privacy Act Request'' in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Information is provided by individuals accessing or using FHFA telecommunication resources or devices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: August 1, 2012.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2012–19572 Filed 8–8–12; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2012–N–11]

Use of Eminent Domain To Restructure Performing Loans

AGENCY: Federal Housing Finance Agency.

ACTION: Notice; input accepted.

The Federal Housing Finance Agency (FHFA) oversees the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks (Banks). Fannie Mae and Freddie Mac (the Enterprises) are operating in conservatorships with a core mission of supporting the housing market. FHFA's obligations, as conservator, are to preserve and conserve assets of the Enterprises and to minimize costs to taxpayers. The Enterprises purchase a large portion of the mortgages originated in the United States and they hold private label mortgage backed securities containing pools of non-Enterprise loans. The Banks likewise have important holdings of such securities. In addition, the Banks accept collateral that consists of mortgages of member financial firms pledged in exchange for advances of funds.

FHFA Concerns

FHFA has significant concerns about the use of eminent domain to revise existing financial contracts and the alteration of the value of Enterprise or Bank securities holdings. In the case of the Enterprises, resulting losses from such a program would represent a cost ultimately borne by taxpayers. At the same time, FHFA has significant concerns with programs that could undermine and have a chilling effect on the extension of credit to borrowers seeking to become homeowners and on investors that support the housing market.

FHFA has determined that action may be necessary on its part as conservator for the Enterprises and as regulator for the Banks to avoid a risk to safe and sound operations and to avoid taxpayer expense.

Among questions raised regarding the proposed use of eminent domain are the constitutionality of such use; the application of federal and state consumer protection laws; the effects on holders of existing securities; the impact on millions of negotiated and performing mortgage contracts; the role of courts in administering or overseeing such a program, including available judicial resources; fees and costs attendant to such programs; and, in particular, critical issues surrounding the valuation by local governments of complex contractual arrangements that are traded in national and international markets.

Input

FHFA will accept input from any person with views on this subject through its Office of General Counsel (OGC), no later than September 7, 2012, as the agency moves forward with its deliberations on appropriate action. Communications may be addressed to FHFA OGC, 400 Seventh Street SW., Eighth Floor, Washington, DC 20024, or emailed to FHFA OGC at *eminentdomainOGC@fhfa.gov.* Communications to FHFA may be made public.

Dated: August 6, 2012.

Richard Hornsby,

Chief Operating Officer, Federal Housing Finance Agency.

[FR Doc. 2012–19566 Filed 8–8–12; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Second Annual Food and Drug Administration Health Professional Organizations Conference

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of conference.

The Food and Drug Administration (FDA) is announcing a conference for representatives of health professional organizations. Topics on the agenda include an update on the FDA Safety and Innovation Act (Pub. L. 112–144) and an overview of FDA's Network of Experts (public/private partnerships).

The afternoon will consist of interactive breakout sessions facilitated by FDA staff from various Centers and Offices, including a networking session to meet FDA personnel.

DATES: *Date and Time:* The conference will be held on October 4, 2012, from 9 a.m. to 4 p.m.

Location: The conference will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993.

Contact Person: Janelle Derbis, Office of Special Health Issues, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8460, email: *Janelle.Derbis@fda.hhs.gov.*

Registration: Register at: *https://www.surveymonkey.com/s/FDAConference.* Please include the name and title of the person attending, the name of the organization, and email address. There is no registration fee for this conference. Early registration is suggested because space is limited.

SUPPLEMENTARY INFORMATION: The aim of the conference is to further the public health mission of FDA through training,

collaboration, and structured discussion between health professional organizations and FDA staff. The Office of Special Health Issues serves as a liaison between FDA Centers and the public on matters that involve medical product safety and also acts as the public's link to information about the medical product approval process.

The conference will include breakout session topics from various FDA Centers including a discussion on the usability and content of FDA's Web site, information on what happens after you submit a MedWatch report, protecting patients from counterfeit and other substandard drugs/supply chain threats, and others. The goal of the breakout sessions is to exchange ideas and to encourage collaboration to promote public health. Please indicate during your registration the topics of greatest interest to you for the breakout sessions.

If you need special accommodations due to a disability, please inform Janelle Derbis, *Janelle.Derbis@fda.hhs.gov,* at least 7 days in advance of the conference.

Dated: August 3, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–19549 Filed 8–8–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict: Vascular Biology and Hematology.

Date: September 3, 2012.

Time: 1 p.m. to 3 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: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–435–1777, *zouai@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Shared Instrumentation: Ultrasound and Optical.

Date: September 7, 2012.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Malgorzata Klosek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7849, Bethesda, MD 20892, (301) 435–2211, *klosekm@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: August 2, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–19431 Filed 8–8–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: September 11, 2012.

Open: 8:30 a.m. to 12 p.m.

Agenda: To discuss administrative details relating to the Council's business and special reports.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Laura K. Moen, Ph.D., Director, Division of Extramural Research Activities, NIAMS/NIH, 6700 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–451–6515, *moenl@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 1, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–19546 Filed 8–8–12; 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 Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Sample Repositories Non-Renewable Sample Access PAR–11–306.

Date: September 4, 2012.

Time: 2 p.m. to 5 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: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA DK–12–504: The Environmental Determinants of Diabetes in the Youth (TEDDY) Study (UC4).

Date: October 2, 2012.

Time: 2 p.m. to 6 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: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 1, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–19547 Filed 8–8–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 materials, 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 Drug Abuse Special Emphasis Panel Collaborative Clinical Trials in Drug Abuse—PAR 10–099.

Date: October 4, 2012.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Science Education Drug Abuse Partnership Award (R25).

Date: November 7, 2012.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Training and Career Development Subcommittee.

Date: November 15–16, 2012.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Eliane Lazar-Wesley, Ph.D., Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4245, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, 301–451–4530, *el6r@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: August 3, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–19545 Filed 8–8–12; 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 a meeting of the Board of Scientific Counselors, NIAAA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIAAA.

Date: August 29–30, 2012.

Time: August 29, 2012, 7:45 a.m. to 6 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 5635 Fishers Lane, Rockville, MD 20852.

Time: August 30, 2012, 7:45 a.m. to 6 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Trish Scullion, Chief of Administrative Branch, National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Room 3061, Rockville, MD 20852, 301–443–6076.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271)

Dated: August 2, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–19542 Filed 8–8–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel Clinical Trials Research Coordination Center (2230).

Date: September 6, 2012.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: August 3, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–19539 Filed 8–8–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4071–DR; Docket ID FEMA–2012–0002]

West Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–4071–DR), dated July 23, 2012, and related determinations.

DATES: *Effective Date:* August 1, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now June 29, 2012, through and including July 8, 2012.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–19551 Filed 8–8–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4072–DR; Docket ID FEMA–2012–0002]

Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Virginia (FEMA–4072–DR), dated July 27, 2012, and related determinations.

DATES: *Effective Date:* July 27, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 27, 2012, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the Commonwealth of Virginia resulting from severe storms and straight-line winds during the period of June 29 to July 1, 2012, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the Commonwealth of Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the Commonwealth. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Donald L. Keldsen, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Virginia have been designated as adversely affected by this major disaster:

The counties of Albemarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Buckingham, Campbell, Carroll, Charlotte, Clarke, Craig, Culpeper, Cumberland, Dinwiddie, Fauquier, Floyd, Fluvanna, Frederick, Giles, Greene, Halifax, Highland, Louisa, Lunenburg, Madison, Nelson, New Kent, Nottoway, Orange, Page, Pittsylvania, Powhatan, Prince Edward, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Shenandoah, Tazewell, and Warren and the independent cities of Bedford, Charlottesville, Covington, Danville, Fairfax, Fredericksburg, Lexington, Lynchburg, Manassas Park, Martinsville, Radford, Roanoke, Salem, Staunton, and Winchester for Public Assistance.

All counties and independent cities within the Commonwealth of Virginia are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036,

Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–19552 Filed 8–8–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Amspec Services LLC, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Amspec Services LLC, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Amspec Services LLC, 1906 Suntide Rd, Corpus Christi, TX 78409, has been approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/automated/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

DATES: The approval of Amspec Services LLC, as commercial gauger became effective on January 26, 2011. The next triennial inspection date will be scheduled for January 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: July 26, 2012.

Ira S. Reese,

Executive Director.

[FR Doc. 2012–19499 Filed 8–8–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request

ACTION: 60-Day notice of information collection; I–515A; Notice to Student or Exchange Visitor; OMB Control No. 1653–0037.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), will submit the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until October 9, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Rich Mattison, Chief, Records Management, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Stop 5705, Washington, DC 20536; (202) 732–4356.

Comments are encouraged and will be accepted for sixty days until October 9, 2012. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of an existing information collection.

(2) *Title of the Form/Collection:* Notice to Student or Exchange Visitor.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* (No. Form I–515A); U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note) provides for the reimbursement to States and localities for assistance provided in meeting an immigration emergency. This collection of information allows for State or local governments to request reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 300 annual burden hours Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Rich Mattison, Chief, Records Management, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Stop 5705, Washington, DC 20536; (202) 732–4356. Dated: July 16, 2012.

Rich Mattison,

Chief, Records Management, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2012–19432 Filed 8–8–12; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–R–2012–N130; FXRS12610200000S3–123–FF02R06000]

Wichita Mountains Wildlife Refuge, Comanche County, OK; Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan (CCP) and an environmental assessment (EA) for Wichita Mountains Wildlife Refuge (Refuge, WMWR), located approximately 25 miles northwest of Lawton, Oklahoma, for public review and comment. The Draft CCP/EA describes our proposal for managing the Refuge for the next 15 years.

DATES: To ensure consideration, please send your written comments by September 10, 2012. We will announce upcoming public meetings in local news media.

ADDRESSES: You may submit comments or requests for copies or more information on the Draft CCP/EA by any one of the methods listed below. You may request hard copies or a CD–ROM of the documents. Please contact Tony Booth, Refuge Manager, or Roxanne Turley, Natural Resource Planner.

Email: Roxanne_Turley@fws.gov. Include ''Wichita Mountains Wildlife Refuge draft CCP and EA'' in the subject line of the message.

Fax: Attn: Roxanne Turley, 505–248–6803.

U.S. Mail: Roxanne Turley, Natural Resource Planner, U.S. Fish and Wildlife Service, NWRS Division of Planning, P.O. Box 1306, Albuquerque, NM 87103.

In-Person Drop-off: You may drop off comments during regular business hours (8 a.m. to 4:30 p.m.) at 500 Gold Street SW., 4th Floor, Room 4342, Albuquerque, NM 87102.

FOR FURTHER INFORMATION CONTACT: Tony Booth, Refuge Manager, Wichita Mountains Wildlife Refuge, CCP Project, 32 Refuge Headquarters, Indiahoma, OK 73552; phone: (580) 429–3222; fax: (580) 429–9323.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for the Wichita Mountains Wildlife Refuge. We started this process through a notice in the **Federal Register** (73 FR 65872; November 5, 2008).

The Refuge encompasses 59,020 acres of mixed-grass prairie and crosstimbers habitats, with granite rock outcroppings. The Refuge, which is a remnant of what was once a much larger natural area, consists of lakes, streams, canyons, mountains, woodlands, and grasslands, creating an oasis for both wildlife and people in southwestern Oklahoma.

The land was originally established as a Forest Reserve by President William McKinley in 1901. By proclamation of President Theodore Roosevelt, dated June 2, 1905, and based on a special act of Congress approved January 24, 1905, the land was further designated as a National Game Preserve ''for the protection of game animals and birds and shall be recognized as a breeding place thereof.'' The land was administered by the U.S. Forest Service until 1936, when it was transferred to the Bureau of Biological Survey, one of the predecessor agencies of the present day U.S. Fish and Wildlife Service. Shortly thereafter, the area was renamed the Wichita Mountains Wildlife Refuge for administration under the National Wildlife Refuge System.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for wildlife observation and photography, and environmental education and interpretation. We will review and, as necessary, update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Public Outreach

Formal scoping began with publication of a notice of intent to prepare a comprehensive conservation plan and environmental assessment (EA) in the **Federal Register** on November 5, 2008 (73 FR 65872). The Refuge solicited comments on issues and concerns to aid in CCP development through four open house meetings held in January and February 2009.

An ecoregion-wide coordination meeting was held at the Refuge Environmental Education Center on December 2, 2009, to gain a better understanding of the issues within the Central Mixed-Grass Prairie ecoregion, where the Refuge is located, and to determine the Refuge's role in addressing issues impacting fish, wildlife, and their habitats within the larger landscape.

In February 2010, Refuge staff met with the Oklahoma Department of Wildlife Conservation to identify their concerns to address in the CCP. Also at that time a letter was sent to local tribes to inform them of the planning process and provide information on how to be involved. One tribal meeting was scheduled as a result.

In addition to the scoping meetings, the Refuge held an open house at the Refuge Visitor Center on January 25, 2011. The purpose of this open house was to introduce the new Refuge Manager and to give the public an opportunity to discuss various Refuge projects and programs, including the planning process.

The feedback received at the conclusion of the public involvement period identified numerous concerns from a variety of stakeholders. These concerns were organized by five broad issue categories and one administrative category: Ecoregion, Habitat, Wildlife, Public Use, Facilities, and Administrative Areas.

CCP Alternatives We Are Considering

During the public scoping process multiple issues were raised by us, other governmental partners, Tribes, and the public. Our draft CCP addresses them. A full description of each alternative is in the EA. To address these issues, we developed and evaluated the following alternatives, summarized below.

Issue topic	Alternative A—no action	Alternative B—proposed action	Alternative C
Issue 1: Ecoregion	Improve efficiency of Refuge fleet and facilities. Minimize or mitigate emissions, smoke, and dust and maintain Class 1 Airshed. Maintain current Refuge boundary. Monitor and provide public outreach on water quality and mercury contamination. Protect riparian areas through the construction and/or maintenance of low water crossings or bridges.	Same as Alternative A, plus: Identify alternative energy and water sources. Increase dust abatement efforts. Explore Refuge expansion opportunities (such as through land acquisition, conservation easements, or cooperative agreements). Expand monitoring of mercury. Pursue park-and-ride commuting or tours and other means to reduce traffic.	Same as Alternative B.
Issue 2: Habitat Management	Maintain Special Use Area (SUA) and continue prohibition on unrestricted public access and use. Manage lakes at full capacity. Conduct occasional draw-downs to control invasive species, manage fisheries, and improve fishing opportunities. Permit grazing on five small allotments on Refuge property located outside of the Refuge boundary fence.	Same as Alternative A, plus: Designate and manage the SUA as a Research Natural Area (RNA). Continue public use and access as in Alternative A with the incorporation of adaptive management if/when resources are at risk. Construct a fish passage on West Cache Creek to improve fish crossings. Phase out and discontinue grazing permits when fences are moved to the true Refuge boundaries.	Same as Alternative B, with the exception of the SUA, which would be managed as in Alternative A, but with allowance of more general, although controlled, public access and use.
Issue 3: Wildlife Management	Manage native fauna (elk, deer, and bison) at or near carrying capacity. Hold public auctions (bison) and hunts (elk and deer) to manage population levels. Manage black-capped vireo according to recovery plan. Manage non-native fauna (longhorn) at carrying capacity. Hold public auctions to manage longhorn population levels. Monitor for zebra mussels in Refuge lakes. Manage feral hogs according to the Integrated Pest Management (IPM) Plan.	Manage populations at levels targeted to allow for habitat variability. Evaluate increasing the bison herd. Evaluate decreasing longhorn herd size, or move the herd to alternate location. Hold public auctions (bison and longhorn) and hunts (elk and deer) to manage population levels. Monitor long-term trends in vegetation and animal health and adaptively manage all native wildlife. Promote expansion of black-capped vireo habitat on adjacent lands. Consider more aggressive and proactive measures to avoid zebra mussel introduction. Manage feral hogs according to the IPM Plan.	Manage native fauna the same as Alternative B, plus evaluate the feasibility of pronghorn antelope and wolf reintroductions. Manage non-native fauna the same as Alternative A, except increase the longhorn herd size.

Issue topic	Alternative A—no action	Alternative B—proposed action	Alternative C
Issue 4: Public Use	Administer hunts to achieve population management objectives for white-tailed deer and elk. Allow fishing at 12 lakes in the Public Use Area. Stock resident fish species periodically. Provide wildlife viewing and photography opportunities. Provide interpretive talks, nature walks, and exhibits. Offer interpretive tours in the SUA through the Friends of the Wichitas. Conduct only a small amount of interpretation in the Wilderness Area. Hold Environmental Education (EE) classes on- and off-Refuge. Partner with Friends group to provide transportation assistance for students. Conduct only a small amount of EE in the Wilderness Area. Allow bicycling on paved roads and on the Mt. Scott access road. Pave highway shoulders along the section of State Highways 115 and 49 that extend from the Medicine Park gate west and south to the Cache gate. Allow boating on five lakes. Provide paved and unhardened boat ramps, interpretive signs, and other facilities. Provide and maintain developed camping opportunities at Doris and Fawn Creek Campgrounds. Allow designated area backcountry camping through a permit. Allow hiking throughout the Public Use and Wilderness Areas. Maintain nine trails totaling about 17 miles in the Public Use Area and in the Wilderness Area on two designated trails totaling about three miles. Provide and maintain four picnicking areas. Allow rock climbing, rappelling, and bouldering throughout the Public Use Area. Maintain partnership and collaborative fixed anchor evaluation process with Wichita Mountains Climbing Coalition (WMCC). Implement all anchor replacements or modifications by hand in the Wilderness Area. Allow special uses including monitoring and research; economic or commercial special uses including rocksports instruction, auctions, and guided interpretive tours; non-commercial special uses including cultural (e.g. tribal) and religious events (e.g. Holy City) and public events. Protect sensitive areas or wildlife through temporary access restrictions if necessary. Allow use without group size restrictions.	Same as Alternative A, plus: Improve fishing opportunities through signage, facilities, and hardened boat ramps. Add youth fishing day clinic. Add fishing piers at Quanah Parker, Jed Johnson, and Crater Lakes. Improve wildlife observation opportunities by upgrading existing facilities and constructing two new viewing blinds. Develop and designate a wildlife observation loop using existing roads and trails. Offer evening and weekend photography workshops. Update exhibits at the Visitor Center. Construct an interpretive nature trail loop around the Visitor Center. Expand public interpretive workshops. Maintain interpretive tours provided by the Friends of the Wichitas but move them from the Special Use Area to the Public Use Area if necessary to protect wildlife and habitat. Work to develop EE Center as a training facility. Link EE programs to the Oklahoma State Curriculum. Increase emphasis on EE from 6 to 10 percent of annual school contacts. Create/designate hiking and bike routes and connect existing routes. Increase quality (linking) of routes to/from Lake Elmer Thomas Recreation Area (LETRA), Cache, Medicine Park, Meers, and Lawton via partnerships. Consider a bicycle-share pilot program. Improve boating opportunities through increased interpretive signage or educational kiosks, increased visitor contacts, and increased law enforcement contacts. Increase camping and picnicking opportunities by working with partners to meet the demand in areas adjacent to the Refuge, including pedestrian and bicycle connections. Increase utilization of less visited picnic areas in the medium density use area. Increase and improve accessible hiking opportunities. Permit replacement of fixed anchors for rocksports but limit placement of new anchors. Conduct special use activities under a Special Use Permit (SUP). Monitor visitation by requiring participants to register on site at trailheads. Manage areas to fit high, medium, and low density use zones. In the low density zone groups would not exceed 15 without a SUP. In the medium density zone groups of up to 30 are allowed. In the high density zone, groups of more than 30 are allowed. Improvements would be focused in the higher density zones.	Review and revise administration of hunts. Consider turkey and feral hog hunts. Manage fishing as in Alternative B, with the exception of evaluating the need for additional fishing piers based on fishing pressure. Allow bicycling as in Alternative B, plus re-open the Burma Road to bicycling. Manage hiking as in Alternative B, plus develop additional hiking opportunities in the high density use zone. Manage rocksports as in Alternative A, except that technical (gear assisted) rock climbing would be eliminated.
Issue 5: Facilities	Maintain Visitor Center, EE Center, headquarters building and quarters, roads, trails, campgrounds, picnic areas, fishing piers, boat ramps, dams, fences, corrals, etc.	Same as Alternative A, plus: Remodel Visitor Center and EE buildings. Install two wildlife observation blinds at the Visitor Center and the EE Center. Increase trash collection infrastructure, place additional kiosks, and improve wayfinding signage. Replace headquarters building, enlarge corrals, and move fence to true Refuge boundary.	Manage administrative facilities the same as Alternative B, plus install emergency phones along roadways. Manage public use facilities the same as Alternative A, plus remodel headquarters building and enlarge corrals.
Issue 6: Administrative Areas	Manage Holy City according to a 5-year SUP to allow for management and administration of events. Manage Treasure Lake Job Corps according to a MOA and easement with the U.S. Department of Labor and U.S. Department of Agriculture Forest Service. Administer site jointly as an educational and vocational training site.	Same as Alternative A, plus: Monitor use of Holy City and effects to Refuge resources. Adapt management of activities if resources are being adversely affected. Consider partnership opportunities with Job Corps participants to include increased EE and Refuge-specific projects.	Remove Holy City facilities and structures. Relocate the Job Corps center off-Refuge.

Issue topic	Alternative A—no action	Alternative B—proposed action	Alternative C
Issue 7: Cultural Resources	Protect known archaeological sites. Protect and maintain designated sites or those sites eligible for designation to preserve historic character.	Same as Alternative A, plus: Update the 1964–1965 archaeological survey by completing systematic surveys Refuge-wide. Increase monitoring of known sites.	Same as Alternative B, plus: Identify sites in the Public Use Area at a greater risk of disturbance. Nominate additional historic sites for designation.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- Wichita Mountains Wildlife Refuge Headquarters Office, 32 Refuge Headquarters, Indiahoma, OK 73552 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.
- Our Web site: *http://www.fws.gov/southwest/refuges/Plan/planindex.html.*
- At the following public libraries:

Library	Address	Phone number
Lawton Public Library	110 SW 4th Street, Lawton, OK 73501	580–581–3450
Cameron University Library	2800 West Gore Blvd., Lawton, OK 73505	580–581–2957
Southern Prairie Library System	421 N. Hudson Street, Altus, OK 73521	580–477–2890

Submitting Comments/Issues for Comment

We consider comments substantive if they:

- Question, with reasonable basis, the accuracy of the information in the document;
- Question, with reasonable basis, the adequacy of the environmental assessment (EA);
- Present reasonable alternatives other than those presented in the EA; and/or
- Provide new or additional information relevant to the assessment.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final CCP and finding of no significant impact.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 3, 2012.

Joy E. Nicholopoulos,

Regional Director, Southwest Region.

[FR Doc. 2012–19497 Filed 8–8–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–R–2012–N142; FXRS12610200000S3–123–FF02R06000]

Attwater Prairie Chicken National Wildlife Refuge, Austin and Colorado Counties, TX; Final Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for the Attwater Prairie Chicken National Wildlife Refuge (Refuge, NWR). In this final CCP, we describe how we will manage this Refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the final CCP and FONSI/EA by any of the following methods. You may request a hard copy or CD–ROM.

Agency Web Site: Download a copy of the documents at *http://www.fws.gov/southwest/refuges/Plan/planindex.html.*

Email: monica_kimbrough@fws.gov. Include ''Attwater Prairie Chicken NWR final CCP'' in the subject line of the message.

Mail: Monica Kimbrough, Natural Resource Planner, U.S. Fish and Wildlife Service, Division of Planning, P.O. Box 1306, Albuquerque, NM 87103–1306.

In-Person Viewing or Pickup: Call 505–248–6642 to make an appointment during regular business hours at 500 Gold Avenue SW., Albuquerque, NM 87102 or the Attwater Prairie Chicken NWR Headquarters, 1206 APC NWR Road, Eagle Lake, TX 77434; phone: (979) 234–3021.

FOR FURTHER INFORMATION CONTACT: Terry Rossignol, Refuge Manager, Attwater Prairie Chicken NWR, CCP—Project, P.O. Box 519, Eagle Lake, TX 77434; phone: (979) 234–3021; fax: (979) 234–3278.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Attwater Prairie Chicken NWR. We started this process through a notice in the **Federal Register** (73 FR 65871; November 5, 2008). We released the draft CCP and the EA to the public, announcing and requesting comments in a notice of availability in the **Federal Register** (76 FR 77245; December 12, 2011).

The Attwater Prairie Chicken NWR, which consists of 10,541 acres located approximately 60 miles west of Houston, Texas, is one of the largest remnants of coastal prairie habitat remaining in southeast Texas. The Refuge was officially established on July 1, 1972, to preserve and restore coastal prairie habitat for the endangered Attwater's prairie-chicken (*Tympanuchus cupido attwateri*).

We announce our decision and the availability of the FONSI for the final CCP for Attwater Prairie Chicken NWR in accordance with National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the EA that accompanied the draft CCP.

The CCP will guide us in managing and administering Attwater Prairie Chicken NWR for the next 15 years.

Alternative B, as we described in the final CCP, is the foundation for the CCP.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

CCP Alternatives, Including Selected Alternative

Our draft CCP and our EA (76 FR 77245; December 12, 2011) addressed several issues. To address these, we developed and evaluated the following alternatives.

Issue topic	A—No action alternative	B—Optimal habitat management and public use (proposed action) alternative	C—Maximal habitat management and public use alternative
Habitat Management Issue 1: Prairie Restoration.	Combination of planting native grasses, grazing, burning, hydrologic restoration.	Same as Alternative A; plus explore partnership options to produce native grass seed to increase the number of restoration acres; expand monitoring for grazing and burning effects; remove infrastructure, including two manmade wetland impoundments, restoring a functional level of hydrology.	Same as Alternative B; except establish seed harvest and production on the Refuge; grazing bison only.
Habitat Management Issue 2: Land/Property Acquisition.	Acquire acres within approved acquisition boundary; not proactively seeking out additional land protection options.	Continue to acquire land within acquisition boundary, proactively seek out land protection options and diversify those options.	Same as Alternative B.
Habitat Management Issue 3: Invasive Species Control (Flora).	Treatments include a combination of chemical, mechanical, and prescribed fire.	Same as Alternative A; plus conduct one-time systematic chemical invasive species control for entire refuge, unit by unit; afterward, treatment is expected to be required every 2–3 years as invasive species re-establish.	Same as Alternative B.
Wildlife Management Issue 1: Attwater's Prairie-Chicken Recovery.	Continue to implement Attwater's Prairie-Chicken Recovery Plan.	Same as Alternative A	Same as Alternative A.
Wildlife Management Issue 2: Invasive Species Control (Fauna).	Eliminate feral hogs and nutria based on sighting and/or documented damage; treat nest sites and conduct research on impacts of red imported fire ants on insect community.	Same as Alternative A; plus work with adjacent land owners to control feral hog population; remove brush and other elements of hog movement corridors; depending on results of current research of red imported fire ants, expand treated area to full extent of refuge and work with adjacent landowners to expand treatment off refuge.	Same as Alternative B.
Wildlife Management Issue 3: Wildlife Food Plots (Farming Program).	Manage three food plots totaling up to 150 acres.	Same as Alternative A; plus explore additional ways to provide supplemental food to Attwater's prairie-chicken, including capability to irrigate and addition of food plots when the species' populations expand.	Eliminate wildlife food plots.
Visitor Services Issue 1: Wildlife Observation and Wildlife Photography.	Provide wildlife observation and photography to include auto-tour route and two hiking trails.	Same as Alternative A; plus realign auto-tour route; exclude cattle from public hiking trails; establish a new platform and hiking trail around Horseshoe Lake; remove Pipit Trail; increase guided van tours.	Same as Alternative B.
Visitor Services Issue 2: Environmental Education.	Provide environmental education as requested and as staff time permits.	Develop an environmental education program and promote in local school districts.	Develop an outdoor classroom through partnerships with local schools, volunteers, and friends group.
Visitor Services Issue 3: Interpretation.	Host annual Attwater's Prairie-Chicken Festival; interpretive signage at headquarters and along auto-tour route.	Same as Alternative A; plus add interpretive signage and kiosk to new auto-tour route and new trail; expand interpretive opportunities using recent technologies.	Same as Alternative B.

Issue topic	A—No action alternative	B—Optimal habitat management and public use (proposed action) alternative	C—Maximal habitat management and public use alternative
Facilities Issue 1: Roads.	Cooperate with county maintenance personnel for refuge entrance road, and maintain other refuge roads.	Same as Alternative A; plus acquire jurisdiction and maintenance responsibilities of existing refuge entrance road and widen to two full lanes; bury powerline along entrance road; evaluate and remove services roads where necessary.	Same as Alternative B.
Facilities Issue 2: Development of Administrative Complex.	Administrative operations conducted out of three portable structures.	Develop and approve site plan for new integrated administrative complex.	Same as Alternative B.

Comments

We solicited comments on the draft CCP and the EA for the Attwater Prairie Chicken NWR from December 12, 2011, to January 23, 2012 (76 FR77245). The public was notified of the release of the draft CCP and the EA through the NOA, through local media outlets, and public notices were posted on various community bulletin boards. The draft CCP and EA were made available, online, at the Regional Office in Albuquerque, at the Refuge, and at three public libraries in surrounding communities. A public open house meeting was held on January 14, 2012. The Service received four comment letters. The comments were thoroughly reviewed and the CCP did not change substantially based on public comment.

Selected Alternative

After considering the comments we received, we have selected Alternative B for implementation. Alternative B was selected over the other alternatives because it best meets the Refuge's vision for the future, the purposes for which the Refuge was established, and the habitat, wildlife and visitor services goals identified in the CCP. This alternative is the basis for the CCP and describes how habitat objectives will be accomplished through a combination of management activities to encourage ecological integrity, control invasive species, improve or maintain habitats, and most importantly support recovery of the Attwater's prairie-chicken. Opportunities for wildlife-dependent recreation activities will be enhanced. Future management actions will have a neutral or positive impact on the local economy and the recommendations in the CCP will ensure that Refuge management is consistent with the mission of the National Wildlife Refuge System and U.S. Fish and Wildlife Service.

Public Availability of Documents

In addition to the methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- At the following libraries:

Library	Address	Phone number
Eula and David Wintermann Library	101 North Walnut Ave., Eagle Lake, TX 77434	979–234–5411
Nesbitt Memorial Library	529 Washington Street, Columbus, TX 78934	979–732–3392
Virgil and Josephine Gordon Memorial Library.	917 North Circle Dr., Sealy, TX 77474	979–885–7469

Dated: August 3, 2012.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region.

[FR Doc. 2012–19538 Filed 8–8–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORE05000.L63320000.AL0000.HAG–11–0172]

Proposed Supplementary Rules for Public Lands Within the Lower Lake Creek Special Recreation Management Area, Eugene District, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) Oregon State Office is proposing supplementary rules for public lands within the State of Oregon, Eugene District, Siuslaw Resource Area, on identified, BLM-managed lands within the boundaries of the Lower Lake Creek Special Recreation Management Area (LLCSRMA). These proposed supplementary rules would partially revise existing supplementary rules in order to protect public land natural resources and provide for the public's health and safety.

DATES: Comments on these proposed supplementary rules must be received or postmarked by October 9, 2012, to be assured consideration. Comments received in person or by electronic mail after this date may not be considered by the BLM in developing final supplementary rules.

ADDRESSES: You may submit comments by mail, hand delivery, or electronic mail.

Mail or hand-delivery: BLM Eugene District Office, 3106 Pierce Parkway, Suite E, Springfield, Oregon 97477.

Electronic mail: *OR_Eugene_mail@blm.gov.* If you submit comments by electronic mail, please indicate ''Attn: Siuslaw Resource Area Recreation'' in your subject line, and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Alan Corbin, Siuslaw Resource Area Field Manager, BLM Eugene District Office, 3106 Pierce Parkway, Suite E, Springfield, Oregon 97477, telephone 541–683–6792. 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:

I. Public Comment Procedures

You may mail or hand-deliver comments to the BLM, Eugene District Office, 3106 Pierce Parkway, Suite E, Springfield, Oregon 97477. You may also comment via the Internet email address: *OR_Eugene_mail@blm.gov.* If you submit comments by electronic mail, please indicate ''Attn: Siuslaw Resource Area Recreation'' in your subject line, and include your name and return address.

Written comments on the proposed supplementary rules should be specific, be confined to issues pertinent to these proposed supplementary rules, and explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment is addressing. The BLM will not necessarily consider or include in the Administrative Record for the final supplementary rules comments that the BLM receives after the close of the comment period (see **DATES**) unless they are postmarked or electronically dated before the deadline. Comments, including names, street addresses, and other contact information of respondents, will be available for public review at 333 SW 1st Avenue, Portland, Oregon 97204, during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except Federal holidays. Before including your address, telephone number, email address, or other personal indentifying information in your comment, you should be aware that your entire comment—including your personal indentifying 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. Discussion of Proposed Supplementary Rules

The BLM Oregon State Office is proposing supplementary rules for public lands within the recreational boundaries of the LLCSRMA. The LLCSRMA is located south of Triangle Lake, Oregon, within Sections 19, 20, 27–30, and 32–34 of Township 16 South, Range 7 West of the Willamette Meridian. Inside the LLCSRMA boundaries is the Lake Creek Falls/Slide Area, a popular recreation destination of major significance for thousands of summer visitors.

These proposed supplementary rules would revise an existing set of supplementary rules, which were published at 62 FR 36303 (July 7, 1997). This proposed revision is necessary in order to protect public land natural resources and provide for the public's health and safety.

The existing supplementary rules for the LLCSRMA include provisions regulating a variety of activities, including operation of motorized vehicles, travel by bicycle, and overnight camping. The existing supplementary rule regarding alcoholic beverages in the LLCSRMA states, ''Consumption, possession, or furnishing of any alcoholic beverage in violation of Oregon State law is prohibited.'' 62 FR at 36303. The existing supplementary rules do not ban consumption, possession, or furnishing of alcohol by anyone who is of legal drinking age in Oregon nor do they include a penalties provision.

These proposed supplementary rules would prohibit visitors of all ages from consuming, possessing, or furnishing any alcoholic beverage within the recreational boundaries of the LLCSRMA, including, but not limited to, the parking lot/day-use area and surrounding hillside, Lower Lake Creek Falls swimming and play area, and pathways leading to the swimming area/falls site. Prohibited acts under this provision would include the consumption, possession, and furnishing of any alcoholic beverage within motor vehicles, tents, or other structures, but would not include any lawful consumption prior to entering the described area. These proposed supplementary rules would also include a penalties provision that would apply solely to the alcohol ban.

The BLM has determined that this rule is necessary to provide a safe and healthy environment at the Lake Creek Falls/Slide Area. This area's regional popularity has led to undesirable impacts associated with large numbers of visitors congregating at a relatively small, remote site. Over the years, increased problems with trash, sanitation, and noise have been routinely documented in addition to increased incidence of traffic accidents for travelers driving to and from the popular area. Each year, the local, rural fire department responds to injuries that occur at the site, many of them alcohol-related. Notably, it is clear to law enforcement and recreation personnel that the use and abuse of alcohol in this area has been a major causal factor of the aforementioned negative impacts to the area. Though law enforcement patrols have been frequent at times, the supplementary rules in place at present for this recreation area are insufficient to control an increasing population of visitors of legal and non-legal age who abuse alcohol. This abuse has helped to foster an unruly, unsafe, and unhealthy recreation experience that is contrary to the BLM's stated intention, which is to promote a safe, clean, healthy environment for visitors to BLM-managed lands.

The intent of these proposed supplementary rules is to put in place an enforceable alcohol ban for the LLCSRMA and return the area to a safer and healthier recreation destination. The proposed ban, together with the proposed penalties provision, would give BLM administrators another tool to utilize in promoting a safe and healthy environment for visitors to the site.

These supplementary rules are proposed under the authority of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1733(a) and 1740) and 43 CFR 8365.1–6.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These proposed supplementary rules would not have an effect of $100 million or more on the economy. They would not adversely affect, in a material way, the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities. These proposed supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These proposed supplementary rules would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients nor do they raise novel legal or policy issues. They would merely impose rules of conduct and impose other limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

National Environmental Policy Act

The BLM generated an EA, Environmental Assessment (DOI–BLM–OR–E050–2012–002–EA) to satisfy the environmental review associated with the proposed supplementary rules. Based on an analysis of the environmental impacts contained in the environmental assessment, it was determined that impacts to the human environment are not expected to be significant.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules would have no effect on business entities of any size. They would merely impose reasonable restrictions on certain recreational or commercial activities on public lands in order to protect natural resources and the environment and provide for human health and safety. Therefore, the BLM has determined, under the RFA, that these proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These final supplementary rules are not considered a ''major rule'' as defined under 5 U.S.C. 804(2). They would merely establish rules of conduct for public use of a limited area of public lands. They would not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

These proposed supplementary rules would not impose an unfunded mandate on State, local or tribal governments or the private sector of more than $100 million per year nor would these proposed supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

These proposed supplementary rules would not comprise a government action capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined that these proposed supplementary rules would not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

These proposed supplementary rules would not have a substantial, direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these proposed supplementary rules would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

The BLM has determined that these proposed supplementary rules would not unduly burden the judicial system and meet the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these proposed supplementary rules would not result in significant changes to BLM policy and that tribal governments would not be unduly affected by these proposed supplementary rules. These proposed supplementary rules would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing these proposed supplementary rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554.).

Executive Order 13211, Effects on the Nation's Energy Supply

These proposed supplementary rules would have no effect on the nation's energy supply, distribution, or use as defined by Executive Order 13211.

Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Clarity of the Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following: (1) Are the requirements in these proposed supplementary rules clearly stated? (2) Do these proposed supplementary rules contain technical language or jargon that interferes with their clarity? (3) Does the format of these proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce clarity? (4) Would these proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections? (5) Is the description of these proposed supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your understanding of these proposed supplementary rules? How could this description be more helpful in making these proposed supplementary rules easier to understand? Please send any comments you have on the clarity of these proposed supplementary rules to the address specified in the **ADDRESSES** section.

Conclusion

For the reasons stated in the preamble and under the authorities for supplementary rules at 43 CFR 8365.1–6 and 43 U.S.C. 1733(a) and 1740, the BLM Oregon/Washington State Director proposes to:

(1) Remove supplementary rule 2, published at 62 FR 36303 (July 7, 1997) that states, ''Consumption, possession, or furnishing of any alcoholic beverage in violation of Oregon State law is prohibited'';

(2) Establish supplementary rules for public lands managed by the BLM in Oregon and Washington, to read as follows:

(a) ''You must not consume, possess, or furnish any beverage defined as an alcoholic beverage by Oregon State law while on public lands within the recreation area boundaries of the LLCSRMA''; and

(b) ''*Penalties:* On public lands under section 303(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1733(a) and 43 CFR 8360–7, any person who consumes, possesses, or furnishes any beverage defined as an alcoholic beverage by Oregon State law, while on public lands within the recreation area boundaries of the LLCSRMA, may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months or both. Such violations

may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.''

Michael S. Mottice,

Bureau of Land Management, Acting State Director, Oregon/Washington.

[FR Doc. 2012–19533 Filed 8–8–12; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTW0000000–LR14300000–ET0000; UTU–65685]

Public Land Order No. 7794; Extension of Public Land Order No. 6941; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 6941 for an additional 20-year period. The extension is necessary to continue the protection of the unique geologic, recreational, and visual resources of the Bonneville Salt Flats, which would otherwise expire on August 5, 2012.

DATES: *Effective Date:* August 6, 2012.

FOR FURTHER INFORMATION CONTACT: Shauna Derbyshire, Bureau of Land Management, Utah State Office, P. O. Box 45155, Salt Lake City, Utah 84145–0155, 801–539–4132, or Dave Watson, Bureau of Land Management, Salt Lake Field Office, 2370 South 2300 West, Salt Lake City, Utah 84119, 801–977–4368. 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 either of the above individuals. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension to continue protection of the Bonneville Salt Flats. The withdrawal extended by this order will expire on August 5, 2032, unless as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 6941 (57 FR 34685 (1992)), as corrected (76 FR 81525 (2011)), which withdrew approximately 30,203.06 acres of public land from settlement, sale, location, or entry under the general land laws, including the United States mining laws, but not from leasing, under the mineral leasing laws, to protect the Bonneville Salt Flats, is hereby extended for an additional 20-year period until August 5, 2032. An additional 3,200.24 acres of non-Federal land described in PLO No. 6941 and located within the exterior boundary of the Bonneville Salt Flats, if acquired by the United States, would also be withdrawn by this order.

Dated: July 26, 2012.

Rhea S. Suh,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 2012–19503 Filed 8–8–12; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0084]

Agency Information Collection Activities: Collection; Comments Requested. Application for Approval as a Nonprofit Budget and Credit Counseling Agency

ACTION: 30-Day Notice of Application Under Review.

The Department of Justice, Executive Office for United States Trustees, will be submitting the following application to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The application is published to obtain comments from the public and affected agencies. This application was previously published in the **Federal Register** Volume 77, Number 105, page 32134, on May 31, 2012, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 10, 2012. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the application are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the application is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of the Information

Type of information collection	Application form
The title of the form/collection	Application for Approval as a Nonprofit Budget and Credit Counseling Agency.
The agency form number, if any, and the applicable component of the department sponsoring the collection.	No form number. Executive Office for United States Trustees, Department of Justice.
Affected public who will be asked or required to respond, as well as a brief abstract.	Primary: Agencies who wish to offer credit counseling services. Other: None. Congress passed a bankruptcy law that requires any individual who wishes to file for bankruptcy to, within 180 days of filing for bankruptcy relief, first obtain credit counseling from a nonprofit budget and credit counseling agency that has been approved by the United States Trustee.

Type of information collection	Application form
An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply.	It is estimated that 175 respondents will complete the application in approximately five (5) hours.
An estimate of the total public burden (in hours) associated with the collection.	The estimated total annual public burden associated with this application is 875 hours.

If additional information is required, contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Washington, DC 20530.

Dated: August 6, 2012.

Jerri Murray,

Department Clearance Officer, Department of Justice.

[FR Doc. 2012–19530 Filed 8–8–12; 8:45 am]

BILLING CODE 4410–40–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0023]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Import/Export Declaration for List I and List II Chemicals; DEA Forms 486 and 486A

ACTION: 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until October 9, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact John W. Partridge, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152; telephone (202) 307–7297.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of Information Collection 1117–0023

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Import/Export Declaration for List I and List II Chemicals.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:*

Form Number: DEA Forms 486 and 486A.

Component: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Not-for-profit; State, local, and tribal government.

Abstract: Persons importing, exporting, and conducting international transactions with List I and List II chemicals must notify DEA of those transactions in advance of their occurrence, including information regarding the person(s) to whom the chemical will be transferred and the quantity to be transferred. Persons must also provide return declarations, confirming the date of the importation and transfer, and the amounts of the chemical transferred. For the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, importers must report all information known to them on the chain of distribution of the chemical from the manufacturer to the importer. This information is used to prevent shipments not intended for legitimate purposes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The below table presents information regarding the number of respondents, responses, and associated burden hours. Note that all hour calculations have been rounded up to the nearest hour.

	Number of respondents	Number of responses	Average time per response	Total
Form 486 (export)	273	9,155	0.283 hour (17 minutes)	2,594 hours
Form 486 (Export Return Declaration)	273	9,155	0.166 hour (10 minutes)	1,526 hours
Form 486 (import)	127	1,899	0.333 hour (20 minutes)	633 hours
Form 486 (import return declaration)*	127	2,089	0.2 hour (12 minutes)	418 hours
Form 486A (import)	29	412	0.4 hour (24 minutes)	165 hours

	Number of respondents	Number of responses	Average time per response	Total
Form 486A (import return declaration) *	29	453	0.2 hour (12 minutes)	91 hours
Form 486 (international transaction)	15	169	0.2 hour (12 minutes)	34 hours
Form 486 (international transaction return declaration).	15	169	0.08 hour (5 minutes)	14 hours
Quarterly reports for imports of acetone, 2-butanone, and toluene.	110	440	0.5 hour (30 minutes)	220 hours
Total	273			5,695 hours

* DEA assumes 10% of all imports will not be transferred in the first thirty days and will necessitate submission of a subsequent return declaration.

(6) *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that there are 5,695 annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Suite 2E–508, Washington, DC 20530.

Dated: August 6, 2012.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–19529 Filed 8–8–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117–0047]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Application for Import Quota for Ephedrine, Pseudoephedrine, and Phenylpropanolamine DEA Form 488

ACTION: 60-Day Notice of Information Collection under Review.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until October 9, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact John W. Partridge, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152; telephone (202) 307–7297.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of Information Collection 1117–0047

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Import Quota for Ephedrine, Pseudoephedrine, and Phenylpropanolamine.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: DEA Form 488.

Component: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Title 21 U.S.C. 952 and 21 CFR 1315.34 require that persons who desire to import the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine during the next calendar year shall apply on DEA Form 488 for import quota for such List I chemicals.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 22 persons complete 52 DEA Forms 488 annually for this collection at 1 hour per form, for an annual burden of 52 hours. Respondents complete a separate DEA Form 488 for each List I chemical for which quota is sought.

(6) *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that there are 52 annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Suite 2E–508, Washington, DC 20530.

Dated: August 6, 2012.

Jerri Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2012–19550 Filed 8–8–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Underground Retorts

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Underground Retorts,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before September 10, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission @omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: Federal Mine Safety and Health Act of 1977 section 103(h), 30 U.S.C. 813(h), authorizes the MSHA to collect information necessary to carry out Agency duties in protecting the safety and health of miners. Regulations 30 CFR 57.22401 sets forth the safety requirements for using a retort to extract oil from shale in underground metal and nonmetal I–A and I–B mines (those that operate in a combustible ore and either liberate methane or have the potential to liberate methane based on the history of the mine or the geological area in which the mine is located). This presently applies only to underground oil shale mines. The standard requires that, prior to ignition of underground retorts, mine operators must submit a written ignition operation plan to the appropriate MSHA District Manager. The plan must contain site-specific safeguards and safety procedures for underground areas of the mine that are affected by the retorts.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0096. The current approval is scheduled to expire on October 31, 2012. For additional information, see the related notice published in the **Federal Register** on April 27, 2012 (77 FR 25206).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0096. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Underground Retorts.

OMB Control Number: 1219–0096.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 1.

Total Estimated Number of Responses: 1.

Total Estimated Annual Burden Hours: 160.

Total Estimated Annual Other Costs Burden: $0.

Dated: August 6, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–19567 Filed 8–8–12; 8:45 a.m.]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Acquisition and Sale of Trust Real Estate Investment Trust Shares by Individual Account Plans Sponsored by Trust Real Estate Investment Trusts

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Acquisition and Sale of Trust Real Estate Investment Trust Shares by Individual Account Plans Sponsored by Trust Real Estate Investment Trusts,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before September 10, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC

20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: Prohibited Transaction Class Exemption 2004–07 permits an individual account pension plan sponsored by a real estate investment trust (REIT) that is organized as a business trust under State law (Trust REIT), or by its affiliates, to purchase, hold and sell publicly traded shares of beneficial interest in the Trust REIT. The relief also covers contributions in kind of REIT shares. Employee Retirement Income Security Act of 1974 section 406 and Internal Revenue Code of 1986 section 4975 would otherwise prohibit such purchases, holdings, and sales.

The class exemption requires, among other conditions, that the Trust REIT (or its agent) provide the person who has authority to direct acquisition or sale of REIT shares with the most recent prospectus, quarterly report, and annual report concerning the Trust REIT immediately before an initial investment in the Trust REIT. The person with such authority may be, under the terms of the plan, either an independent fiduciary or a participant exercising investment rights pertaining to his or her individual account under the plan. Updated versions of the reports must be provided to the directing person as subsequently published. The exemption further requires the plan to maintain records concerning investments in a Trust REIT, subject to appropriate confidentiality procedures, for a period of six years and make them available to interested persons including the Department and participants and beneficiaries. The confidentiality procedures must be designed to protect against the possibility that an employer may exert undue influence on participants regarding share-related transactions, and the participants and beneficiaries of the plan must be provided with a statement describing the confidentiality procedures in place and the fiduciary responsible for monitoring these procedures.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0124. The current approval is scheduled to expire on August 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on April 5, 2012 (77 FR 20650).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0124. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Acquisition and Sale of Trust Real Estate Investment Trust Shares by Individual Account Plans Sponsored by Trust Real Estate Investment Trusts.

OMB Control Number: 1210–0124.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 46.

Total Estimated Number of Responses: 96,600.

Total Estimated Annual Burden Hours: 4,838.

Total Estimated Annual Other Costs Burden: $251,160.

Dated: August 2, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–19474 Filed 8–8–12; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

TA–W–81,446, Wellpoint, Inc., NE Enrollment and Billing Division, Including On-Site Leased Workers From Aerotek, Kelly Services and Populus Group, North Haven, CT; TA–W–81,446A, Wellpoint, Inc., NE Enrollment and Billing Division, Including On-Site Leased Workers From Aerotek, Kelly Services and Populus Group, Manchester, NH; TA–W–81,446B, Wellpoint, Inc., NE Enrollment and Billing Division, Including On-Site Leased Workers From Aerotek, Kelly Services and Populus Group, South Portland, ME; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 9, 2012, applicable to workers of WellPoint, Inc., NE Enrollment and Billing Division, including on-site leased workers from Aerotek, Kelly Services and Populus Group, North Haven, Connecticut. The workers are engaged in the supply of health insurance and related services. The notice was published in the **Federal Register** on April 27, 2012 (77 FR 25201).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. Information shows that the Manchester, New Hampshire and South Portland, Maine locations of the subject firm operated in the same capacity through various processing services, and both experienced worker separations during the relevant time period due to the acquisition of services from abroad.

Accordingly, the Department is amending the certification to include workers of the Manchester, New Hampshire and South Portland, Maine locations of WellPoint, Inc., NE Enrollment and Billing Division.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the acquisition of services from abroad.

The amended notice applicable to TA–W–81,446 is hereby issued as follows:

All workers from WellPoint, Inc., NE Enrollment and Billing Division, including on-site leased workers from Aerotek, Kelly Services and Populus Group, North Haven, Connecticut (TA–W–81,446), and all workers of WellPoint, Inc., NE Enrollment and Billing Division, including on-site leased workers from Aerotek, Kelly Services and Populus Group, Manchester, New Hampshire (TA–W–81,446A), and all workers of WellPoint, Inc., NE Enrollment and Billing Division, including on-site leased workers from Aerotek, Kelly Services and Populus Group, South Portland, Maine, who became totally or partially separated from employment on or after March 22, 2011 through April 9, 2014, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1074, as amended.

Signed at Washington, DC, this 25th day of July 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–19467 Filed 8–8–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,919]

RG Steel Sparrows Point LLC, Formerly Known as Severstal Sparrows Point LLC, a Subsidiary of RG Steel LLC, Including All On-Site Leased Workers, Sparrows Point, MD; 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 (Department) issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 9, 2011, applicable to workers and former workers of Severstal International, Sparrows Point, Maryland. The workers are engaged in employment related to the production of rolled steel. On June 22, 2012 and July 18, 2012, the Department issued notices of Amended Certification applicable to the subject firm.

Subsequent to the issuance of the amendments, the Department received multiple requests to include additional on-site leased worker groups to the certification applicable to workers of the subject firm.

The intent of the Department's certification is to include all workers of the subject firm, including all on-site leased workers, who were adversely affected by increased company imports of flat rolled steel.

The amended notice applicable to TA–W–74,919 is hereby issued as follows:

All workers of RG Steel Sparrows Point LLC, formerly known as Severstal Sparrows Point LLC, a subsidiary of RG Steel LLC, including all on-site leased workers, Sparrows Point, Maryland, who became totally or partially separated from who became totally or partially separated from employment on or after November 22, 2009 through February 9, 2013, and all workers in the group threatened with total or partial separation from employment on February 9, 2011 through February 9, 2013, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 30th day of July, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–19461 Filed 8–8–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–75,151; TA–W–75,151A]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–75,151, Navistar Truck Development and Technology Center, A Subsidiary of Navistar International Corporation, Truck Division, Including All On-Site Leased Workers, 2911 Meyer Road, Fort Wayne, Indiana.

TA–W–75,151A, Navistar Truck Reliability Center, A Subsidiary of Navistar International Corporation, Truck Division, Including All On-Site Leased Workers, 3033 Wayne Trace, Fort Wayne, Indiana.

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor (Department) issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 20, 2011, applicable to workers of Navistar International Truck Development and Technology Center, a Subsidiary of Navistar International Corporation, Truck Division, 2911 Meyer Road, Fort Wayne, Indiana (TA–W–75,151) and Navistar Truck Reliability Center, a Subsidiary of Navistar International Corporation, Truck Division, 3033 Wayne Trace, Fort Wayne, Indiana (TA–W–75,151A). On July 13, 2012, the Department issued an amended certification applicable to TA–W–75,151.

Subsequent to the issuance of the amendment, the Department received multiple requests to include additional on-site leased worker groups to the certifications applicable to workers of the subject firm (TA–W–75,151 and TA–W–75,151A).

The intent of the Department's certification is to include all workers of the subject firm at the aforementioned locations, including all on-site leased workers, who were adversely affected by the subject firm's shift in the supply of services to a foreign country.

The amended notice applicable to TA–W–75,151 is hereby issued as follows:

''All workers of Navistar International Truck Development and Technology Center, a Subsidiary of Navistar International Corporation, Truck Division, including all on-site leased workers, 2911 Meyer Road, Fort Wayne, Indiana (TA–W–75,151) and Navistar Truck Reliability Center, a Subsidiary of Navistar International Corporation, Truck Division, including all on-site leased workers, 3033 Wayne Trace, Fort Wayne, Indiana (TA–W–75,151A), who became totally or partially separated from employment on or after January 30, 2010 through October 20, 2013, and all workers in the group threatened with total or partial separation from employment on the 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 30th day of July 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–19462 Filed 8–8–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,122; TA–W–80,122A]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–80,122, Honeywell, Formerly Known as Honeywell International, Scanning and Mobility Division (AKA Hand Held

Products, Inc.), Including All On-Site Leased Workers, Skaneateles Falls, New York.

TA–W–80,122A, Honeywell, Formerly Known as Honeywell International, Scanning and Mobility Division (AKA Hand Held Products, Inc.), Including All On-Site Leased Workers, Blackwood, New Jersey.

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 May 25, 2011, applicable to workers of Honeywell International, Scanning and Mobility Division, Skaneateles Falls, New York. On June 26, 2012, the Department issued an amended certification reflecting that the Scanning and Mobility Division was known as Hand Held Products, Inc. At the request of a company official, the Department reviewed the certification for workers of the subject firm.

New information from the company shows that workers employed at the Blackwood, New Jersey location of Honeywell, Scanning and Mobility Division, operated in conjunctions with Honeywell, Scanning and Mobility Division, Skaneateles, New York.

The intent of the Department's certification is to include all workers of the subject firm at the Skaneateles, New York and Blackwood, New Jersey locations, who were adversely affected by an increase in imports following a shift abroad of bar scanners.

The amended notice applicable to TA–W–80,122 is hereby issued as follows:

All workers of Honeywell, formerly known as Honeywell International, Scanning and Mobility Division (AKA Hand Held Products, Inc.), including all on-site leased workers, Skaneateles Falls, New York (TA–W–80,122) and Honeywell, formerly known as Honeywell International, Scanning and Mobility Division (AKA Hand Held Products, Inc.), including all on-site leased workers, Blackwood, New Jersey (TA–W–80,122A), who became totally or partially separated from employment on or after September 23, 2010, through May 25, 2013, and all workers in the groups threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1074, as amended.

Signed at Washington, DC this 30th day of July, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–19463 Filed 8–8–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

TA–W–81,520, T-Mobile USA, Inc., Call Center, Allentown, PA; TA–W–81,520G, T-Mobile USA, Inc., Headquarters Office, Bellevue, WA; 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 July 11, 2012, applicable to workers of T-Mobile USA, Inc., Call Center, Allentown, Pennsylvania (TA–W–81,520), Fort Lauderdale, Florida (TA–W–81,520A), Frisco, Texas (TA–W–81,520B), Brownsville, Texas (TA–W–81,520C), Lenexa, Kansas (TA–W–81,520D), Thornton, Colorado (TA–W–81,520E),and Redmond, Oregon (TA–W–81,520F). The workers are engaged in the supply of call center services. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information shows that worker separations occurred during the relevant time period at the Headquarters Office of T-Mobile USA, Inc., Bellevue, Washington. The Bellevue, Washington location provides human resources, and various administrative functions for T-Mobile USA, Inc.

Accordingly, the Department is amending the certification to include workers of the Bellevue, Washington location of T-Mobile USA, Inc., Call Center.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the acquisition of call center services from the Philippines.

The amended notice applicable to TA–W–81,520 is hereby issued as follows:

All workers from T-Mobile USA, Inc., Call Center, Allentown, Pennsylvania (TA–W–81,520), T-Mobile USA, Inc., Call Center, Fort Lauderdale, Florida (TA–W–81,520A), T-Mobile USA, Inc., Call Center, Frisco, Texas (TA–W–81,520B), T-Mobile USA, Inc., Call Center, Brownsville, Texas (TA–W–81,520C), T-Mobile USA, Inc., Call Center, Lenexa, Kansas (TA–W–81,81,520D), T-Mobile USA, Inc., Call Center, Thornton, Colorado (TA–W–81,520E), T-Mobile USA, Inc., Redmond, Oregon (TA–W–81,520F), and T-Mobile USA, Inc., Headquarters Office, Bellevue, Washington (TA–W–81,520G), who became totally or partially separated from employment on or after April 17, 2011 through July 11, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1074, as amended.

Signed at Washington, DC, this 26th day of July 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–19466 Filed 8–8–12; 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 23, 2012 through July 27, 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
81,598	AAR Precision Systems, AAR Corporation	Lebanon, KY	May 9, 2011.
81,692	AAR Corporation—Summa Technology, Mobility Systems, Cullman Employee Center.	Cullman, AL	May 7, 2011.
81,699	Charles D. Owen Manufacturing Company, Inc., Springs Global US, Inc..	Swannanoa, NC	July 31, 2012.
81,703	NBC Solid Surfaces	Springfield, VT	June 8, 2011.
81,726	Cinram Manufacturing, LLC, Cinram International, Onesource Staffing Solutions.	Olyphant, PA	July 17, 2012.
81,726A	Cinram Distribution, LLC, Cinram International, Ambassador Personnel, Select Remedy, Wood Personnel.	LaVergne, TN	July 17, 2012.
81,726B	Leased Workers from ERG Staffing Service and AA Temporary Services, Working On-Site at Cinram Manufacturing, LLC.	Olyphant, PA	June 14, 2011.
81,726C	Leased Workers from AFEEA, All-Star and Elwood, Working On-Site at Cinram Manufacturing, LLC.	LaVergne, TN	June 14, 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
81,633	International Business Machines (IBM), The Project Service Center, 05—Business Consulting Services, Tele-Workers.	Orlando, FL	May 15, 2011.
81,633A	International Business Machines (IBM), The Project Service Center, 05—Business Consulting Services, Tele-Workers.	Minneapolis, MN	May 15, 2011.
81,633B	International Business Machines (IBM), The Project Service Center, 05—Business Consulting Services, Tele-Workers.	Research Triangle, NC.	May 15, 2011.
81,633C	International Business Machines (IBM), The Project Service Center, 05—Business Consulting Services, Tele-Workers.	Charleston, SC	May 15, 2011.
81,633D	International Business Machines (IBM), The Project Service Center, 05—Business Consulting Services, Tele-Workers.	Cincinnati, OH	May 15, 2011.
81,673	RBC Manufacturing Corporation, Toolroom Department and Production Machining Dept., Seek Careers/Staffing.	Grafton, WI	October 20, 2011.
81,705	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers at Mesa, AZ.	Mesa, AZ	June 11, 2011.
81,705A	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers at St. Louis.	Saint Louis, MO	June 11, 2011.
81,705B	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers at San Ramon.	San Ramon, CA	June 11, 2011.
81,705C	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers in NC & GA.	Alpharetta, GA	June 11, 2011.
81,705D	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Inc..	Houston, TX	June 11, 2011.
81,705E	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers at Durham.	Durham, NC	June 11, 2011.
81,705F	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers at Milwaukee.	Milwaukee, WI	June 11, 2011.
81,705G	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers at Tampa.	Tampa, FL	June 11, 2011.
81,705H	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers at Lisle.	Lisle, IL	June 11, 2011.
81,705I	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Inc.	Bedminister, NJ	June 11, 2011.
81,705J	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Inc.	Atlanta, GA	June 11, 2011.
81,705K	AT&T Services, Inc., Global Customer Care-Service Assurance, AT&T, Off-Site Workers at Fishkill.	Fishkill, NY	June 11, 2011.
81,748	Clear Edge Filtration, Kelly Services	Skaneateles, NY	June 20, 2011.
81,748A	Clear Edge Filtration, Kelly Services	Moravia, NY	June 20, 2011.
81,784	Schawk Retail Marketing, Chicago Division, Schawk, Creative Circle, Aquent, etc..	Chicago, IL	February 26, 2012.
81,790	WellPoint, Inc., Central Host Claims & Adjustments, incl. UI from The WellPoint Companies, Inc., and off-site in Ohio.	Worthington, OH	June 29, 2011.
81,797	International Business Machines (IBM), U.S. Payroll Department, (1K) Global Process Services Delivery.	Endicott, NY	July 12, 2011.
81,799	Dun & Bradstreet, Inc., The Dun & Bradstreet Corporation, Including Remote Workers.	Center Valley, PA	July 12, 2011.
81,811	Esselte Corporation, Leased Workers from Onin Staffing	Morristown, TN	July 17, 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
81,641	Sierra Aluminum Company, Including On-Site Leased Workers From Employment Solutions and Areol.	Riverside, CA	May 19, 2010.
81,641A	Sierra Aluminum Company, Including On-Site Leased Workers From Employment Solutions.	Fontana, CA	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 criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
81,538	State Journal Register, Camera and Plate Department	Springfield, IL.	

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
81,653	Hoku Materials, Inc., Hoku Corporation	Pocatello, ID.	

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
81,651	SFI of Ohio, LLC, Lerman Holding Company	New Boston, OH.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
81,803	Arthritis Foundation	Pittsburgh, PA.	

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
81,727	Cinram Distribution, LLC, Cinram International	LaVergne, TN.	
81,792	Solo W–2, Inc., Siltronic Corporation	Portland, OR.	

I hereby certify that the aforementioned determinations were issued during the period of July 23, 2012 through July 27, 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 31, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–19465 Filed 8–8–12; 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 20, 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 20, 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 1st day of August 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

16 TAA petitions instituted between 7/23/12 and 7/27/12

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81817	Honeywell Metropolis Works (Union)	Metropolis, IL	07/23/12	07/20/12
81818	Mi-Lin Wood Products (Company)	Paoli, IN	07/23/12	07/20/12
81819	Medical Card System (State/One-Stop)	De Pere, WI	07/23/12	07/20/12
81820	PSB Limited (Workers)	Mendon, NY	07/24/12	07/11/12
81821	Bonnell Aluminum (Company)	Kentland, IN	07/24/12	07/23/12
81822	Ross Mould, Inc. (Union)	Washington, PA	07/24/12	07/13/12
81823	Champion Photochemistry (Company)	Rochester, NY	07/25/12	07/24/12
81824	Miasa Automotive, LLC (Company)	Yorktown, IN	07/25/12	07/24/12
81825	Institute for Career Development (State/One-Stop)	Sparrows Point, MD	07/25/12	07/24/12
81826	Konarka Technologies (State/One-Stop)	New Bedford, MA	07/26/12	07/25/12
81827	Verizon (Workers)	Hilliard, OH	07/26/12	07/20/12
81828	Atmel Corporation (State/One-Stop)	San Jose, CA	07/26/12	07/24/12
81829	United Knitting, LP (Company)	Cleveland, TN	07/26/12	07/25/12
81830	LA Salad International (State/One-Stop)	City of Industry, CA	07/26/12	07/25/12
81831	CDI (Company)	Virginia Beach, VA	07/27/12	07/24/12
81832	Bnymellon (Workers)	Brooklyn, NY	07/27/12	07/26/12

[FR Doc. 2012–19464 Filed 8–8–12; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 77 FR 33496, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* 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; or (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: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Comments regarding this information collection 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 703–292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton at (703) 292–7556 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device 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.

NSF 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.

SUPPLEMENTARY INFORMATION:

Title of Collection: DUE Project Data Form.

OMB Control No.: 3145–0201.

Abstract: The DUE Project Data Form (NSF 1295) is a component of all grant proposals submitted to NSF's Division of Undergraduate Education. This form collects information needed to direct proposals to appropriate reviewers and to report the estimated collective impact of proposed projects on institutions, students, and faculty members. Requested information includes the discipline of the proposed project, collaborating organizations involved in the project, the academic level on which the project focuses (e.g., lower-level undergraduate courses, upper-level undergraduate courses), characteristics of the organization submitting the proposal, special audiences (if any) that the project would target (e.g., women, minorities, persons with disabilities), strategic foci (if any) of the project (e.g., research on teaching and learning, international activities, integration of research and education), and the number of students and faculty at different educational levels who would benefit from the project.

Respondents: Investigators who submit proposals to NSF's Division of Undergraduate Education.

Estimated Number of Annual Respondents: 2,500.

Burden on the Public: 20 minutes (per response) for an annual total of 833 hours.

Dated: August 6, 2012.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2012–19534 Filed 8–8–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Comment Request: Experimental Program to Stimulate Competitive Research Jurisdictional Survey

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation invites the general public and other Federal agencies to take this opportunity to comment on this information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 75 FR 66167 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

DATES: Comments regarding these information collections are best assured of having their full effect if received by OMB within 30 days of publication in the **Federal Register**.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by email to *splimpto@nsf.gov.* Copies of the submission may be obtained by calling (703) 292–7556.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton, the NSF Reports Clearance Officer, phone (703) 292–7556, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

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.

SUPPLEMENTARY INFORMATION:

Title of Collection: Experimental Program to Stimulate Competitive Research Jurisdictional Survey Evaluation for the National Science Foundation.

OMB Number: 3145–NEW.

Type of Request: Initial Clearance.

Abstract

The National Science Foundation (NSF) Act of 1950 (Pub. L. 507–81st Congress, as amended) stated that ''* * * it shall be an objective of the Foundation to strengthen science and engineering research potential and education at all levels throughout the United States; and avoid undue concentration of such research and education, respectively.'' This Congressional directive recognized the inherent value of a truly national scientific and engineering (S&E) research enterprise. Over time, however, the nation's S&E efforts became concentrated geographically, focusing primarily on a limited number of major research universities. The NSF's resources became concentrated to the point where in 1977, in response to congressional concerns; the National Science Board established a task force to examine the geographical distribution of NSF awards. The issue was discussed at the 195th meeting of the NSB. Approval was requested for initiation of a program designed to ''stimulate competitive research in regions of the country that were less able to compete successfully for research funds.'' In 1978 the NSB approved a resolution (NSB–78–12) establishing the *Experimental Program to Stimulate Competitive Research (EPSCoR)* and the general guidelines for its management.

The mission of EPSCoR is to assist the National Science Foundation in its statutory function ''to strengthen research and education in science and engineering throughout the United States and to avoid undue concentration of such research and education.''

The EPSCoR goals are to: (1) Provide strategic programs and opportunities for EPSCoR participants that stimulate sustainable improvements in their R&D capacity and competitiveness; and (2) advance science and engineering capabilities in EPSCoR jurisdictions for discovery, innovation, and overall knowledge-based prosperity.

The EPSCoR objectives are to: (1) Catalyze key research themes and related activities within and among EPSCoR jurisdictions that empower knowledge generation, dissemination and application; (2) activate effective jurisdictional and regional collaborations among academic, government and private sector stakeholders that advance scientific research, promote innovation and provide multiple societal benefits; (3) broaden participation in science and engineering by institutions, organizations and people within and among EPSCoR jurisdictions; and (4) use EPSCoR for development, implementation and evaluation of future programmatic experiments that motivate positive change and progression.

Expected Respondents

The respondents will be current and former EPSCoR awardees based at academic; state and local governments; and non-profit organizations. Quantitative procedures will be fielded using Web-based modes. Up to 200 EPSCoR awardees will be contacted to request their participation in the survey. As needed, each EPSCoR awardee will be contacted with reminders to complete the survey no more than twice during the survey's duration under this generic clearance. Technology will be heavily utilized to limit the burden on respondents.

Use of the Information

The purpose of this survey of EPSCoR awardees is to better understand outcomes of NSF EPSCoR-related investments. The data will be used internally to inform NSF as it considers future improvements to the EPSCoR program, and to gain a better understanding regarding the program's impact on associated research and education activities. Findings may be presented externally to Congress, the Office of Management and Budget (OMB), in technical papers at conferences, published in the proceedings of conferences, or in journals.

Burden on the Public

Number of Respondents: 87.

Average Number of Hour per Response: 30.

Overall Burden Request (in hours): 2639.

Comments: Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the

information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 6, 2012.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2012–19531 Filed 8–8–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369 and 50–370; NRC–2012–0185]

Duke Energy Carolinas, LLC, McGuire Nuclear Station, Units 1 and 2, Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request, opportunity to comment, opportunity to request a hearing.

DATES: Comments must be filed by September 10, 2012. A request for a hearing must be filed by October 9, 2012.

ADDRESSES: You may access information and comment submissions related to this document, which the NRC possesses and are publically available, by searching on *http://www.regulations.gov* under Docket ID NRC–2012–0185. You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0185. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov*.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jon H. Thompson, Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1119; email: *Jon.Thompson@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2012–0185 when contacting the NRC about the availability of information regarding this document. You may access information related to this document by any of the following methods:

- *Federal Rulemaking Web Site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0185.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The application for amendment, dated December 5, 2011, is available electronically under ADAMS Accession No. ML11341A110.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0185 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will posts all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. 50–369 and 50–370 issued to Duke Energy Carolinas, LLC (the licensee) for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendment would revise Technical Specification 3.3.1, ''Reactor Trip System (RTS) Instrumentation,'' Table 3.3.1–1, ''Reactor Trip System Instrumentation,'' Function 16(e) to replace the phrase ''Turbine Impulse Pressure'' with ''Turbine Inlet Pressure.''

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR) 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR

50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1:

Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to replace the phrase ''Turbine Impulse Pressure, P–13'' with ''Turbine Inlet Pressure, P–13'' in the descriptive text associated with Technical Specification 3.3.1, Reactor Trip System Instrumentation, Table 3.3.1–1, Function 16, Reactor Trip System Interlocks, item (e), does not involve any physical or design change to the P–13 function. The proposed change renames the turbine inlet pressure to reflect a change in turbine design and the new location where the pressure is sensed. The change is intended to eliminate any potential confusion regarding turbine type or the sensing location.

The proposed clarification of the P–1 3 function does not introduce an initiator or any design basis accident or event. The proposed change is consistent with the safety analysis assumptions and resultant consequences. In that the P–13 function is not affected, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2:

Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The relationship between turbine inlet pressure and the Rated Thermal Power (RTP) at the new location will be verified during testing. Although the pressure sensed at the new location is higher than the pressure sensed at the current location, the end use devices (i.e., various indication, recording, monitoring, control, and protection functions) of the RTS and associated functions will be recalibrated/re-scaled as necessary to maintain their basic functions. The response of the P–13 logic is unaffected, and the design function of the instrument loops has not changed.

Because the proposed change to replace the phrase ''Turbine Impulse Pressure, P–13'' with ''Turbine Inlet Pressure, P–13'' in Table 3.3.1–1, Function 16(e), does not involve a physical or design change to the P–13 function, no new accident causal mechanisms are created as a result of the requested changes which would result in the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3:

Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Implementation of this amendment will not result in a significant reduction in the margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these barriers will not be impacted by the proposed change.

The requirement for turbine pressure input in the P–13 RTS interlock is that the P–13 signal be representative of the RTP. This is accomplished by measuring the pressure at the HP turbine inlet because this pressure exhibits a consistent and accurate relationship with RTP.

The end use/device of the RTS and associated functions will be recalibrated/re-scaled as necessary to maintain their basic functions. The response of the P–1 3 logic is unaffected by this modification. The design function of the instrument loops has not changed.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the

petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E–Filing rule (72 FR 49139; August 28, 2007). The E–Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E–Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E–Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E–Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E–Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E–Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E–Filing system. To be timely, an electronic filing must be submitted to the E–Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E–Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E–Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E–Filing system.

A person filing electronically using the agency's adjudicatory E–Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E–Filing, may require a participant or party to use E–Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E–Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment dated December 5, 2011, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

Attorney for licensee: Lara S. Nichols, Associate General Counsel, Duke Energy Corporation, 526 South Church Street—EC07H, Charlotte, NC 28202.

Dated at Rockville, Maryland, this 1st day of August 2012.

For the Nuclear Regulatory Commission.

Jon H. Thompson,

Project Manager, Plant Licensing Branch II–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–19540 Filed 8–8–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittees on Reliability and PRA and Fukushima; Revision to Notice of Meetings

The (ACRS) Subcommittee on Fukushima originally scheduled for the afternoon of August 14, 2012, has been moved to the morning of August 15, 2012, 8:30 a.m. until 12 p.m.

The ACRS Subcommittee on Reliability and PRA which was to be held on August 15, 2012, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland has been cancelled.

These notices were previously published in the **Federal Register** on Wednesday, August 1, 2012 (77 FR 45698–45699).

Further information regarding these meetings can be obtained by contacting the Designated Federal Official (DFO), Derek Widmayer (Telephone 301–415–7366 or Email: *Derek.Widmayer@nrc.gov*) between 8:15 a.m. and 5 p.m.

Dated: August 1, 2012.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2012–19548 Filed 8–8–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293; License No. DPR–35; NRC–2012–0186]

Entergy Nuclear Operations, Inc.; Pilgrim Nuclear Power Station Receipt of Request for Action

Notice is hereby given that by petition dated July 19, 2010, as supplemented by letter dated August 6, 2010, Ms. Mary Lampert (the Petitioner) has requested that pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, ''Requests for Action under this Subpart,'' the U.S. Nuclear Regulatory Commission (NRC or the Commission) take action with regard to the Pilgrim Nuclear Power Station (Pilgrim). The Petitioner requested that the NRC take the following actions: (1) Issue a Demand for Information Order requiring that Entergy Nuclear Operations, Inc. (Entergy or the licensee) demonstrate that all inaccessible cables at Pilgrim are capable of performing their required function, be it safety- or nonsafety-related, (2) certify that the location, age, and repair history of all cables (accessible and inaccessible) have been identified, (3) ensure that the licensee monitors all cables before continued operation to demonstrate that the cables can perform their design functions, (4) ensure that the licensee incorporates in its monitoring program, at a minimum, recommendations for certain aging management guidelines and NRC generic guidance, (5) commit to verifying, during the license renewal period, Entergy's implementation through routine baseline inspections, and (6) commit to a timely upgrade of the regulatory guidance for maintaining cable qualification and the verification that the cables can perform their design functions.

The NRC's Petition Review Board initially met on November 4, 2010, and later reconvened on June 4, 2012, considered the petition, including all supplemental information provided as previously described, and made a final recommendation to accept the petition for review, in part. The following specific issues and concerns identified in the July 19, 2010, petition and/or supplemented during the teleconferences meet the criteria for review under 10 CFR 2.206, and are being accepted for review:

(1) NRC regulations require that plant owners ensure that electrical wiring is qualified to perform in the environmental conditions experienced during normal operation and during accidents. Pilgrim has no program today as required by NRC regulations to ensure operability of the submerged and/or wetted wires.

(2) Most electrical cables at Pilgrim have been exposed to significant moisture over the past 40 years since initial construction. The wires and possibly the connections and splices inside conduits are designed to operate properly only in a dry environment and not designed to operate in a moist or wet environment; thus, there is no assurance that they will not fail if wet or submerged or previously exposed to moisture.

(3) Wires degrade with age, and the oldest wires are the most susceptible to degradation. Pilgrim is one of the oldest operating commercial reactors in the country, and the majority of the conduits and wires at Pilgrim were installed during the initial construction. There are no existing methods to ensure operability, short of visual inspection and/or replacement with cables designed to operate in a wet or submerged environment.

(4) As identified in several pertinent sections of Pilgrim's license renewal application and the safety evaluation report, Pilgrim's aging management program, for the period 2012–2032, is

insufficient and does not provide the public with reasonable assurance.

The NRC is treating the request under 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, the NRC will take appropriate action on this petition within a reasonable time.

A copy of the petition is available to the public from the NRC's Agencywide Documents Access and Management System (ADAMS) in the public Electronic Reading Room on the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML102020275, and are available for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 2nd day of August 2012.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–19537 Filed 8–8–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

Board Votes to Close July 27, 2012, Meeting

By telephone vote on July 27, 2012, members of the Board of Governors of the United States Postal Service met and voted unanimously to close to public observation its meeting held in Washington, DC, via teleconference. The Board determined that no earlier public notice was possible.

Items Considered

1. Strategic Issues
2. Financial Matters.

General Counsel Certification

The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

Contact Person for More Information

Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2012–19721 Filed 8–7–12; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission held a Closed Meeting on Saturday, August 4, 2012 at 8 p.m.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c), 4, 8 and 9(A) and (B) and 17 CFR 200.402(a)(4), (8) and 9(A) and (B) permit consideration of the scheduled matter at the Closed Meeting. Certain staff members who had an interest in the matter were present.

Commissioner Walter, as duty officer, voted to consider the item listed for the Closed Meeting in a closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting on August 4, 2012 was a matter related to a financial institution.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: August 6, 2012.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–19604 Filed 8–7–12; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67592; File No. SR–BOX–2012–003]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the Price Improvement Period

August 3, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 25, 2012, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7150 (The Price Improvement Period (''PIP'')) to modify the execution of quotes and orders that are on the BOX Book prior to a PIP. The text of the proposed rule change is available at the principal office of the Exchange, on the Exchange's Web site at *http://boxexchange.com,* at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the BOX Price Improvement Period (''PIP'')[3] Rule 7150 to modify the execution of quotes and orders that are on the BOX Book prior to a PIP. Currently, Rule 7150(f) permits a PIP to begin at or better than the National Best Bid or Offer (''NBBO'') and 7150(f)(1) provides that at the commencement of the PIP, all quotes and orders on the BOX Book prior to the PIP Broadcast that are equal to or better than (1) the Single-Priced Primary Improvement Order price or (2) the PIP Start Price of a Max Improvement Primary Improvement Order, except any proprietary quote or order from the Initiating Participant, will be immediately executed against the customer order designated for the PIP (''PIP Order'') in price/time priority. The result of the current rule is that when an

[3] Capitalized terms not otherwise defined herein shall have the meaning as defined in the Exchange Rules.

order is submitted to the PIP and there is sufficient quantity on the BOX Book prior to the PIP Broadcast to execute the PIP Order, the PIP never starts. For example: Submitted PIP Order to sell 100 contracts at NBBO of $2.00; Orders on the BOX Book prior to the PIP Broadcast:

- Public Customer to buy 30 contracts at $2.00;
- Market Maker A to buy 40 contracts at $2.00; and
- Broker-Dealer to buy 50 contracts at $2.00.

Under the current rule, the PIP Order executes 100 contracts against the orders on the Book at $2.00 in price/time priority as follows:

- Public Customer for 30 contracts;
- Market Maker A for 40 contracts; and
- Broker-Dealer for 30 contracts.

The PIP Order misses out on any potential opportunity for an execution at a better price, or prices, (price improvement) because the PIP never begins. The Exchange proposes to delete the provision in 7150(f)(1) noted above, amend 7150(f)(1), and 7150(f)(4), and add a new provision as 7150(g)(3). The proposed rule change to 7150(f)(1) would specify that at the conclusion of the PIP, the PIP Order shall be executed as set forth in 7150(f)(3), 7150(f)(4), 7150(g), and 7150(j).

Rule 7150(f)(4) sets out certain exceptions to time priority in the execution of the PIP Order. First, at the same price, if better than the PIP Start Price, Public Customer orders, whether an Improvement Order or an Unrelated Order, execute before non-market maker broker-dealer orders and all non-BOX Participant broker-dealer orders. Next, a proposed addition to 7150(f)(4)(i) would specify that all quotes and orders on the BOX Book prior to the PIP Broadcast, excluding any proprietary quote or order from the Initiating Participant, will be filled in time priority before any other order at the same price. Another technical, non-substantive change to 7150(f)(4)(i) inserts the defined term ''Unrelated Order'' in an instance where the undefined term ''unrelated order'' has been used.

Proposed new 7150(g)(3) states that the Primary Improvement Order follows in time priority in the PIP allocation to all quotes and orders on the BOX Book prior to the PIP Broadcast that are equal to the (A) Single-Priced Primary Improvement Order price; or (B) execution price of a Max Improvement Primary Improvement Order that results in the balance of the PIP Order being fully executed, except any proprietary quote or order from the Initiating Participant. BOX notes that, similar to the current BOX Rules, such proprietary quote or order shall not be executed against the PIP Order during or at the conclusion of the PIP. As set forth above, among the quotes or orders on the BOX Book prior to the PIP Broadcast at the final execution price level, the PIP Order shall be matched against the quotes or orders in accordance with price/time priority as set forth in Rule 7130.

For example: Submitted PIP Order to sell 100 contracts with Single-Priced Primary Improvement Order to buy at NBBO of $2.00. Orders on the BOX Book prior to the PIP Broadcast:

- Public Customer to buy 30 contracts at $2.00;
- Market Maker A to buy 40 contracts at $2.00; and
- Broker-Dealer to buy 50 contracts at $2.00.

Improvement Orders submitted during PIP:

- Market Maker B to buy 40 contracts at $2.01, and
- Market Maker C to buy 30 contracts at $2.02.

Under the proposed rule change, the PIP Order would execute against the following:

- Market Maker C for 30 contracts at $2.02;
- Market Maker B for 40 contracts at $2.01; and
- Public Customer for 30 contracts at $2.00.

In this example, the PIP Order executes 70 contracts at a better price than it would under the current rule. BOX believes the proposed rule change will benefit Participants' customer orders by providing them an opportunity for price improvement they do not currently receive. Initiating Participants are required to guarantee an execution of the PIP Order at the NBBO or at a better price. The Initiating Participant's willingness to guarantee the customer order an execution at NBBO or a better price is important to the customer order gaining the opportunity for price improvement. Unfortunately, under the current BOX Rules, many PIP Orders do not have the opportunity to be exposed to competition in the PIP and potentially receive an execution at a better price. As such, BOX believes that the proposed rule change will benefit customers because it will ensure that more customer orders are exposed to that PIP competition and thus, more likely that such orders may receive price improvement. Orders on the BOX Book prior to the PIP, however, retain their priority over the Initiating Participant for allocation at the conclusion of the PIP at the same price. Such orders execute based on their time priority on the BOX Book prior to the PIP Broadcast. Options Participants' orders submitted to BOX are ranked and maintained in the BOX Book according to price/time priority, such that within each price level, all orders are organized by time of order entry. No distinction is made to this priority with regard to account designation (Public Customer, Broker/Dealer, or Market Maker). BOX believes that price/time priority provides an incentive for all market participants to post their best prices quickly.

The PIP has saved investors more than $388 million versus the prevailing NBBO since 2004, a monthly average of more than $3.8 million. BOX believes that the proposed rule change will result in additional PIP transactions, and thus, in customers having a greater opportunity to benefit from price improvement.

Max Improvement Primary Improvement Orders

Currently, if an Initiating Participant enters a Max Improvement Primary Improvement Order as defined in 7150(f), such an order automatically matches both the price and size of all competing quotes and orders at any price level achieved during the PIP, or up to a limit price as set by the Initiating Participant. At the conclusion of the PIP, a Max Improvement Primary Improvement Order will be allocated an equal number of contracts as the aggregate size of competing quotes and orders at each price level until a price level is reached where the balance of the PIP Order can be fully executed, except that the Initiating Participant will retain priority for 40% of the remaining PIP Order at the final price level. Otherwise, at the conclusion of the PIP, the PIP Order shall be matched against quotes and orders as set forth in 7150(f)(3)–(4), 7150(g), and 7150(j).

The Exchange proposes to amend 7150(g)(3) to provide that a Primary Improvement Order would yield priority to all quotes and orders on the BOX Book prior to the PIP Broadcast that are equal to or better than the execution price of a Max Improvement Primary Improvement Order that results in the balance of the PIP Order being fully executed, except any proprietary quote or order from the Initiating Participant. Similar to the current BOX Rules, such proprietary quote or order shall not be executed against the PIP Order during or at the conclusion of the PIP.

For example, a PIP Order is submitted to sell 100 contracts at NBBO of $2.00

with Max Improvement Primary Improvement Order to buy at prices up to $2.03, with a PIP Start Price of $2.00.

Orders on the BOX Book prior to the PIP Broadcast:

- Public Customer to buy 30 contracts at $2.00;
- Market Maker A to buy 40 contracts at $2.00; and
- Broker-Dealer to buy 50 contracts at $2.00.

Improvement Orders submitted during PIP:

- Market Maker B to buy 20 contracts at $2.01, and
- Market Maker C to buy 10 contracts at $2.02.

Under the proposed rule change, the PIP Order would execute against the following:

- Market Maker C for 10 contracts at $2.02;
- Initiating Participant for 10 contracts at $2.02;
- Market Maker B for 20 contracts at $2.01;
- Initiating Participant for 20 contracts at $2.01
- Public Customer for 30 contracts at $2.00; and
- Market Maker A for 10 contracts at $2.00.

In this example, the PIP Order executes 60 contracts at a better price than it would under the current rule. It is possible that the orders on the Book at NBBO prior to the PIP would not execute against the PIP Order that is submitted to the PIP at NBBO. The PIP Order, however, is still guaranteed an execution by the Initiating Participant, and receives price improvement better than the NBBO for a portion of the PIP Order. BOX notes, however, that the PIP Order could potentially receive improvement for the entire quantity of the order.

In the example above, the Initiating Participant is entitled to receive 10 contracts at $2.02 (matching the 10 contracts that are allocated $2.02), and 20 contracts at $2.01 (matching the 20 contracts allocated at $2.01). Because $2.00 is the final price level where the PIP Order is fully executed, the Public Customer is allocated 30 contracts and Market Maker A is allocated 10 contracts based on their price/time priority on the BOX Book prior to the PIP Broadcast. These orders on the BOX Book, however, retain their priority over the Initiating Participant at the final price level.

Rule 7150(g)(2) provides that when submitting a Max Improvement Primary Improvement Order, the Initiating Participant retains priority over other Improvement Orders for 40% of the remaining size of the PIP Order at the price where the PIP Order can be fully executed.

For example, a PIP Order is submitted to sell 100 contracts at NBBO of $2.00 with Max Improvement Primary Improvement Order to buy at prices up to $2.03, with a PIP Start Price of $2.00. Orders on the BOX Book prior to the PIP Broadcast:

- Public Customer to buy 10 contracts at $2.00;

Improvement Orders submitted during PIP:

- Market Maker B to buy 20 contracts at $2.01;
- Market Maker C to buy 10 contracts at $2.02;
- Broker-dealer to buy 25 contracts at $2.00.

Under the proposed rule change, the PIP Order would execute against the following:

- Market Maker C for 10 contracts at $2.02;
- Initiating Participant for 10 contracts at $2.02;
- Market Maker B for 20 contracts at $2.01;
- Initiating Participant for 20 contracts at $2.01
- Public Customer for 10 contracts at $2.00;
- Initiating Participant for 12 contracts at $2.00; and
- Broker-dealer for 18 contracts at $2.00

In this example, the PIP Order also executes 60 contracts at a price better than NBBO. The Initiating Participant is entitled to receive 10 contracts at $2.02 (matching the 10 contracts that are allocated $2.02), and 20 contracts at $2.01 (matching the 20 contracts allocated at $2.01). Because $2.00 is the final price level where the PIP Order is fully executed, the Public Customer on the BOX Book prior to the PIP Broadcast retains his priority over the Initiating Participant at the final price level and is allocated his 10 contracts. Finally, among the Improvement Orders at the final price of $2.00, the Initiating Participant retains priority for 40% of the remaining 30 contracts. Thus, the Initiating Participant is allocated 12 contracts at $2.00 and the Broker-dealer that submitted the Improvement Order is allocated the final 18 contracts at $2.00. As noted above, additional quantity on the BOX Book at the final execution price ($2.00 in this instance) prior to the PIP Broadcast, regardless of account type (*e.g.,* Public Customer, Market Maker, or Broker-dealer), would retain priority over the Initiating Participant at that price and trade in price/time priority in the same fashion as they otherwise would on the BOX Book.

BOX notes that Unrelated Orders submitted to BOX will continue to execute with the PIP as they do within the current BOX Rules 7150(i) and 7150(j). The Exchange is not proposing any change to these Rules regarding Unrelated Orders. As stated in proposed Rule 7150(f)(4)(i), ''* * * all quotes and orders on the BOX Book prior to the PIP Broadcast, excluding any proprietary quote or order from the Initiating Participant, will be filled in time priority before any other order at the same price.'' As such, Unrelated Orders received after a PIP Broadcast would execute in time priority after quotes and orders at the same price that were on the Book prior to the PIP Broadcast.

Upon Commission approval of the proposal, and at least one week prior to implementation of the proposed rule change, BOX will issue an Informational Circular to Participants, informing them of the implementation date. This will give Participants an opportunity to make any necessary modifications to coincide with the implementation date.

In connection with this proposed rule change, the Exchange will continue to provide to the Commission the following monthly data, and corresponding analysis, related to the PIP: (1) The number of orders of 50 contracts or greater entered into the PIP auction; (2) the percentage of all orders of 50 contracts or greater sent to BOX that are entered into the PIP auction; (3) the spread in the option at the time an order of 50 contracts or greater is submitted to the PIP auction; (4) the percentage of PIP trades executed at the NBBO plus $.01, plus $.02, plus $.03, etc.; and (5) the number of orders submitted by Order Flow Providers (''OFPs'') and Market Makers when the spread was at a particular increment (*e.g.,* $.05, $.10, $.15, etc.). Also, relative to item 5 above, for each spread, the Exchange will provide the percentage of contracts in orders of fewer than 50 contracts and for orders of 50 contracts or greater submitted to the PIP that were traded by: (a) The OFP or Market Maker that submitted the order to the PIP; (b) BOX Market Makers assigned to the class; (c) other BOX Participants; (d) Public Customer Orders (including Customer PIP Orders (''CPOs'')); (e) Unrelated Orders (orders in standard increments entered during the PIP), and (f) quotes and orders on the BOX Book prior to the PIP Broadcast.

Further, BOX will provide, for the first and third Wednesday of each month, the: (a) Total number of PIP auctions on that date; (b) number of PIP auctions where the order submitted to the PIP was fewer than 50 contracts; (c) number of PIP auctions where the order

submitted to the PIP was 50 contracts or greater; (d) number of PIP auctions where the number of Participants (excluding the Initiating Participant) was zero, one, two, three, four, etc. Finally, the Exchange will continue to provide information each month with respect to situations in which the PIP is terminated prematurely or a Market Order, Limit Order, or BOX-Top Order immediately execute with a PIP Order before the PIP's conclusion. The following information will be provided: (1) The number of times that a Market Order, Limit Order, or BOX-Top Order in the same series on the same side of the market as the PIP Order prematurely terminated the PIP, and (a) the number of times such orders were entered by the same (or affiliated) firm that initiated the PIP that was terminated, and (b) the number of times such orders were entered by a firm (or an affiliate of such firm) that participated in the execution of the PIP Order; (2) for the orders addressed in each of 1(a) and 1(b) above, the percentage of PIP premature terminations due to the receipt, during the PIP, of a Market Order, Limit Order, or BOX-Top Order in the same series on the same side of the market as the PIP Order; and the average amount of price improvement provided to the PIP Order where the PIP is prematurely terminated; (3) the number of times that a Market Order, Limit Order, or BOX-Top Order in the same series on the opposite side of the market as the PIP Order immediately executed against the PIP Order, and (a) the number of times such orders were entered by the same (or affiliated) firm that initiated the PIP, and (b) the number of times such orders were entered by a firm (or an affiliate of such firm) that participated in the execution of the PIP Order; (4) for the orders addressed in each of 3(a) and 3(b) above, the percentage of PIP early executions due to the receipt, during the PIP, of a Market Order, Limit Order, or BOX-Top Order in the same series on the opposite side of the market as the PIP Order; and the average amount of price improvement provided to the PIP Order where the PIP Order is immediately executed; and (5) the average amount of price improvement provided to the PIP Order when the PIP runs for 100 milliseconds.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[4] in general, and Section 6(b)(5) of the Act,[5] in particular, that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes this proposed rule change is a reasonable modification designed to provide additional opportunities for BOX Options Participants to obtain executions with price improvement for their customers while continuing to provide meaningful competition within the PIP. The Exchange also believes that the proposed rule change will increase the number of PIP transactions and participation in the PIP, which will ultimately enhance competition in the PIP and provide customers with additional opportunities for price improvement. The Exchange believes these changes are consistent with the goals to remove impediments to and to perfect the mechanism for a free and open market and a national market system.

Section 11(a) of the Act prohibits a member of a national securities exchange from effecting transactions on that exchange for his own account, the account of an associated person, or an account over which he or his associated person exercises investment discretion (collectively, ''covered accounts''), unless an exception applies. The purpose of Section 11(a) is to address trading advantages enjoyed by the exchange members and conflicts of interest in money management.[6] In particular, as the Commission has stated, Congress enacted Section 11(a) out of concern about members benefiting in their principal transactions from special ''time and place'' advantages associated with floor trading—such as the ability to ''execute decisions faster than public investors.''[7] Section 11(a) includes several exceptions from the general prohibition for principal transactions that contribute to the fairness and orderliness of exchange transactions or do not reflect any time and place advantages. For example, Section 11(a)(1) provides that the prohibition on principal transactions does not apply to transactions by a dealer acting in the capacity of a market maker,[8] bona fide arbitrage, risk arbitrage or hedge transactions,[9] transactions by an odd lot dealer,[10] and transactions made to offset errors.[11]

The Commission has stated that it believes that transactions effected through the BOX PIP are consistent with the requirements in Section 11(a) of the Act and Rule 11a1–1(T) thereunder because Options Participants that are not market makers are required to yield priority in the PIP to all non-member orders, (*i.e.,* to all Public Customer Orders and non-BOX Participant broker-dealer orders) at the same price.[12] Note that Participants, however, in addition to yielding priority to non-member orders at the same price, must also meet the other requirements under Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder (or satisfy the requirements of another exception) to effect transactions for their own accounts.

As discussed below, the Exchange believes the PIP is generally consistent with Section 11(a)(1)(G) and Rule 11a1–1(T) under the Act because non-Market Maker Participant orders must yield to Public Customer orders.[13] The Exchange also believes, however, that the proposed change to execute quotes and orders on the BOX Book prior to the PIP Broadcast against a PIP Order will satisfy the conditions of Rule 11a2–2(T) under the Act (the ''Rule'').[14]

Yielding to Public Customer Orders

Exchange Rules prohibit any orders for the accounts of non-Market Maker Options Participants to be executed prior to the execution of Public Customer Orders, whether an Improvement Order, including a CPO, or Unrelated Order, and non-BOX-Participant broker-dealer orders at the same price.[15] Section 11(a)(1)(G) and Rule 11a1–1(T) under the Act provide an exception to the general prohibition

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] *See* Securities Reform Act of 1975, Report of the House Comm. On Interstate and Foreign Commerce, H.R. Rep. No. 94–123, 94th Cong., 1st Sess. (1975); Securities Acts Amendments of 1975, Report of the Senate Comm. On Banking, Housing, and Urban Affairs, S. Rep. No. 94–75, 94th Cong., 1st Sess. (1975).

[7] *See* Securities Exchange Act Release Nos. 14563 (March 14, 1978), 43 FR 11542, 11543 (March 17, 1978); 14713 (April 27, 1978), 43 FR 18557 (''April 1978 Release''); 15533 (January 29, 1979), 44 FR 6084 (''1979 Release'').

[8] Section 11(a)(1)(A).

[9] Section 11(a)(1)(D).

[10] Section 11(a)(1)(B).

[11] Section 11(a)(1)(F).

[12] *See* Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323, at 26336 (May 3, 2012), In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission. *See also* Securities Exchange Act Release No. 49068 (January 13, 2004), 69 FR 2775, at 2790 (January 20, 2004) (establishing, among other things, the Boston Options Exchange, LLC options trading facility of BSE).

[13] 15 U.S.C. 78k(a)(1)(G) and 17 CFR. 240.11a1–1(T).

[14] 17 CFR 240.11a2–2(T).

[15] *See* Rule 7150(f)(4) and 7150(g)(3).

in Section 11(a) on an exchange member effecting transactions for its own account. Specifically, a member that ''is primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, and acting as broker, or any one or more of such activities, and whose gross income normally is derived principally from such business and related activities'' [16] and effects a transaction in compliance with the requirements in Rule 11a1–1(T)(a) [17] may effect a transaction for its own account. Among other things, Rule 11a1–1(T)(a) requires that an exchange member presenting a bid or offer for its own account or the account of another member shall grant priority to any bid or offer at the same price for the account of a non-member of the exchange. Because BOX Rules require Options Participants that are not Market Makers to yield priority in the PIP to all non-member orders, BOX believes that the execution of PIP transactions on BOX is consistent with the requirements in Section 11(a) and Rule 11a1–1(T) under the Act.[18] The Exchange notes that BOX Options Participants, in addition to yielding priority to non-member orders at the same price, must also meet the other requirements under Section 11(a)(1)(G) and Rule 11a1–1(T) (or satisfy the requirements of another exception) to effect transactions for their own accounts.

Consistent with Section 11(a) of the Act, current BOX PIP Rules ''prohibit any orders for the accounts of non-Market Maker BOX Options Participants to be executed prior to the execution of Public Customer Orders, both Public Customer PIP Orders and unrelated Customer Orders, and non-BOX Options Participant broker-dealer orders at the same price.'' [19] Although the Proposal would change when BOX ''sweeps'' the BOX Book in relation to the PIP, it would not change that Public Customers retain priority over certain other orders at the same price when executed at the end of a PIP transaction, except for quotes and orders on the BOX Book prior to the PIP Broadcast.

Application of ''Effect Versus Execute'' Exemption From Section 11(a) of the Act

The Commission has stated that it believes that BOX Option Participants entering orders into the BOX Trading Host, excluding those transactions effected through the PIP process, will satisfy the conditions of Rule 11a2–2(T) (''the Rule'').[20] The Exchange believes that the executions of quotes and orders that are on the BOX Book prior to a PIP Broadcast against a PIP Order will also satisfy the conditions of the Rule.

Under the proposed rule change, a PIP Order with a matching Primary Improvement Order submitted to the PIP would automatically initiate a PIP. Any Improvement Orders at a better price submitted during the PIP will be executed with the PIP Order, as described above, with Public Customer orders at that price having priority. If at the conclusion of the PIP, there is any remaining unexecuted size of the PIP Order, BOX will ''sweep'' the BOX Book for quotes and orders at the PIP start price, and the PIP Order remainder will be executed against those orders according to price/time priority.

Rule 11a2–2(T) under the Act provides exchange members with an exemption from the prohibition on principal trading, in addition to the exceptions delineated in the statute. Known as the ''effect versus execute'' rule, Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with the Rule's conditions, a member:

(i) May not be affiliated with the executing member;

(ii) Must transmit the order from off the exchange floor;

(iii) May not participate in the execution of the transaction once it has been transmitted to the member performing the execution; [21] and

(iv) With respect to an account over which the member has investment discretion, neither the member nor his associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.[22]

The Commission has stated that these four requirements of the Rule are ''designed to put members and non-members on the same footing, to the extent practicable, in light of the purposes of Section 11(a).'' [23] If a transaction meets the four conditions of the Rule, it will be deemed to be in compliance with Section 11(a)(1), the protection of investors and the maintenance of fair and orderly markets.[24] For the reasons set forth below, the Exchange believes the structural and operational characteristics of the BOX Book are consistent with the stated objectives of Section 11(a) of the Act, and that all users would be placed on the ''same footing'', as intended by Rule 11a2–2(T), even where quotes and orders on the BOX Book prior to a PIP execute against the PIP Order.

The Commission has recognized and accommodated the functioning of electronic exchange facilities under the Rule.[25] In addition, the Commission and its staff have permitted exchanges to sponsor innovative trading systems in reliance on the Rule, based on the exchanges' representations that such facilities, by design, do not provide any special time and place advantage to members.[26] In particular, the

[16] 15 U.S.C. 78k(a)(1)(G)(i). Paragraph (b) of Rule 11a1–1(T) under the Act provides that a member shall be deemed to meet the requirements of Section 11(a)(1)(G)(i) of the Act if during its preceding fiscal year more than 50% of its gross revenues was derived from one or more of the sources specified in that section. In addition to any revenue which independently meets the requirements of Section 11(a)(1)(G)(i), revenue derived from any transaction specified in paragraph (A), (B), or (D) of Section 11(a)(1) of the Act or specified in Rule 11a1–4(T) shall be deemed to be revenue derived from one or more of the sources specified in Section 11(a)(1)(G)(i).

[17] 15 U.S.C. 78k(a)(1)(G)(ii).

[18] *Supra* n.12.

[19] *See* Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323, at 26336 (May 3, 2012), In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission.

[20] *Supra* n.19 at 26335.

[21] The member may, however, participate in clearing and settling the transaction.

[22] 17 CFR 240.11a2–2(T)(a)(2).

[23] April 1978 Release at 18560.

[24] 17 CFR 240.11a2–2(T)(e).

[25] *See* Securities Exchange Act Release Nos. 61152 (December 10, 2009), 74 FR 66699 (December 16, 2009) (File No. 10–191) (Findings, Opinion, and Order of the Commission In the Matter of the Application of C2 Options Exchange, Incorporated for Registration as a National Securities Exchange) (''C2 Approval Order'') at note 170; 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (File No. SR–NASDAQ–2007–004) (approval order concerning the establishment of the NASDAQ Options Market LLC (''NOM'')) (''NOM Approval Order''); Order approving the rules of the Boston Options Exchange, *supra* n.12; 54552 (September 29, 2006) (AMEX AEMI trading system), 71 FR 59546 (October 10, 2006); 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (Chicago Stock Exchange trading system); 54528 (September 28, 2006), 71 FR 58650 (October 4, 2006) (International Securities Exchange trading system); and 49747 (May 20, 2004), 69 FR 30344 (May 27, 2004) (AMEX electronic options trading system).

[26] *See e.g.,* Securities Exchange Act Release No. 44983 (October 25, 2001) (Archipelago Exchange), citing Letter from Paula R. Jenson, Deputy Chief Counsel, Division of Market Regulation, SEC, to Kathryn L. Beck, Senior Vice President, Special Counsel and Antitrust Compliance Officer, Pacific Exchange, Inc. (October 25, 2001) (''Arca Letter''); Letter from Larry E. Bergmann, Senior Associate Director, Division of Market Regulation, SEC, to Edith Hallahan, Associate General Counsel, Philadelphia Stock Exchange, Inc. (March 24, 1999) (''VWAP Letter''); Letter from Catherine McGuire, Chief Counsel, Division of Market Regulation, SEC, to David E. Rosedahl, PCX (November 30, 1998) (''OptiMark Letter''); Letter from Brandon Becker, Director, Division of Market Regulation, SEC, to George T. Simon, Partner, Foley & Lardner (November 30, 1994) (''Chicago Match Letter''); Securities Exchange Act Release No. 29237 (May

Continued

Commission has stated, in the context of certain automated execution systems, that where the execution is performed on an automated basis by the facility itself, ''the member would not retain any ability to control the timing of the execution or otherwise enjoy the kind of special order-handling advantages inherent in being on an exchange floor.[27] The Commission has applied the Rule in a functional manner, taking into account the structural characteristics that distinguish the operation of an automated execution system from traditional exchange floor activities. This approach represents the sensible conclusion by the Commission and its Staff that implementation of Section 11(a) should reflect the ''continuing rapid pace of economic, technological and regulatory changes in the market.'' [28]

Application of the Rule to Quotes and Orders on the BOX Book Prior to the PIP That Execute With the PIP Order

In light of the automated execution of orders submitted to BOX, no Options Participant will enjoy any special control over the timing and execution or special order handling advantages in effecting transactions in orders submitted to the BOX Book. All orders are processed for execution by computer, rather than being handled manually by an Options Participant. Because these processes prevent Options Participants from gaining any time and place advantage once an order is submitted to BOX, the Exchange believes that the BOX Book process satisfies three of the four conditions of the Rule, as well as the general policy objectives of Section 11(a) of the Act. Of course, as discussed below, BOX Options Participants relying on the Rule also must comply with the fourth condition of the Rule with respect to discretionary accounts, and the Exchange will enforce this requirement pursuant to its obligation under Section 6(b)(1) of the Act to enforce compliance with the federal securities laws.

(i) Execution Through Unaffiliated Member

The Rule's first condition is that the order be executed by an exchange member that is unaffiliated with the member initiating the order.[29] The Commission has repeatedly stated that this requirement is satisfied when automated exchange facilities, such as BOX, are used, so long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the system.[30] In considering the operation of NOM and C2, the Commission noted, while there is no independent executing exchange member, the execution of an order is automatic once it has been transmitted to the system.[31] Because the design of these systems ensures members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T).[32]

This principle is directly applicable to the BOX Book, including the quotes and orders on the Book prior to a PIP that may execute against the PIP Order. The design of the BOX Book ensures that broker-dealers do not have any special or unique trading advantages in handling their orders after transmission. Accordingly, the Exchange believes that a broker-dealer effecting a transaction through the BOX Book, even where the quote or order on the Book prior to a PIP executes against the PIP Order, satisfies the requirement for execution through an unaffiliated member.

The design of BOX ensures that no BOX Options Participant will enjoy any special control over the timing of execution or special order handling advantages after order transmission. All orders on the BOX Book and through the PIP, are centrally processed and executed automatically by BOX. Specifically, orders sent to BOX will be transmitted from remote terminals directly to the system by electronic means. Once an order is submitted to the BOX Book, the order is executed against another order based on the established matching algorithms for the Book. And, as proposed, those quotes and orders on the Book prior to a PIP, may trade with the PIP Order, or will execute when orders or quotations on BOX match one another based on price/time priority. The execution does not depend on the Options Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the BOX Book, or if a PIP is initiated, and where the order is ranked based on the priority ranking algorithm. At no time following the submission of an order to the BOX Book is an Options Participant able to acquire control or influence over the result or timing of order execution. Accordingly, Participants do not control or influence the result or timing of orders submitted to the BOX Book, even if such an order were to match with the PIP Order.

(ii) Off-Floor Transmission

The Rule requires that orders for a covered account transaction be transmitted from off the exchange floor.[33] Again, the Commission has considered this requirement in the context of various automated trading and electronic order-handling facilities operated by national securities exchanges.[34] In these contexts, the Commission determined that a covered account order sent through such an exchange facility would be deemed to be transmitted from off the floor. Like these other automated systems, orders sent to BOX, regardless of where it executes within the BOX system, including the Book or the PIP, will be transmitted from remote terminals directly to BOX by electronic means. OFPs and BOX Market Makers will only submit orders and quotes to BOX from electronic systems from remote locations, separate from BOX. There are no other Options Participants that are able to submit orders to BOX other than OFPs or Market Makers. Therefore, the Exchange believes that Participants' orders electronically received by BOX satisfy the off-floor transmission requirement for the purposes of the Rule.[35]

(iii) Non-Participation in Order Execution

The Rule further provides the exchange member and his associated person not participate in the execution of the order once it has been

24, 1991), 56 FR 24853 (May 31, 1991) (NYSE's Off-Hours Trading Facility (October 25, 2001).

[27] 1979 Release, *supra* n. 7 at 6087, n. 35

[28] 1979 Release, *supra* n. 7 at 6087.

[29] 17 CFR 240.11a2–2(T)(a)(2)(i).

[30] *See e.g.,* C2 Approval Order and NOM Approval Order, *supra* n. 25, and Order approving rules of the Boston Options Exchange, *supra* n. 12.

[31] *See,* NOM Approval Order and C2 Approval Order.

[32] *Id.*

[33] 17 CFR 240.11a2–2(T)(a)(2)(ii).

[34] *See e.g.,* Release Nos. 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (File Nos. SR–NYSE–90–52 and SR–NYSE–90–53) (regarding NYSE's Off-Hours Trading Facility); 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 28, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); NOM Approval Order; 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 1979 Release.

[35] The Commission has not considered the lack of a traditional physical floor to be an impediment to the satisfaction of the off-floor requirement. *See, e.g.,* 1979 Release.

transmitted.[36] This requirement originally was intended to prevent members with their own floor brokers from using those persons to influence or guide their orders' executions.[37] A member is not precluded from canceling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted; provided, however, such cancellations or modifications are transmitted from off the exchange floor.[38]

In analyzing the application of the non-participation requirement to automated execution facilities, the Commission has specifically noted in regard to BOX that the execution does not depend on the Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the BOX Book, and where the order is ranked based on the priority ranking and execution algorithm.[39] Based on prior Commission interpretations, orders submitted electronically to the BOX Book will similarly meet the non-participation requirement. Upon submission to BOX, an order is executed against another order on the BOX Book or with the PIP Order based on an established matching algorithm. The execution does not depend on the Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the BOX Book, whether a PIP is initiated, and where the order is ranked based on the priority ranking algorithm. At no time following the submission of an order to the BOX Book is an Options Participant able to acquire control or influence over the result or timing of order execution. Accordingly, Participants do not control or influence the result or timing of orders submitted to BOX, even if their order on the Book may execute with a PIP Order. As such, the Exchange believes the non-participation requirement is met when orders are executed automatically on the BOX Book.

(iv) Non-Retention of Compensation

Finally, the exemption in Rule 11a2–2(T) states, in the case of a transaction effected for an account with respect to which an exchange member or an associated person thereof exercises investment discretion, neither the member nor any associated person thereof, may retain any compensation in connection with effecting the transaction without the express written consent of the person authorized to transact business for the account, given in accordance with the Rule.[40] As a prerequisite for BOX usage, if a Participant is to rely on Rule 11a2–2(T) for a covered account transaction, the Participant must comply with the limitations on compensation set forth in the Rule.[41]

The Exchange believes that orders executed on the BOX Book, including those on the Book prior to a PIP that may execute against a PIP Order, would satisfy the requirements of the ''effect versus execute'' rule as well as the general policy objectives of Section 11(a) of the Act. Additionally, the Exchange believes that BOX Options Participant executions that occur through the BOX PIP, would continue to be consistent with the requirements in Section 11(a)(1)(G) and Rule 11a1–1(T) under the Act. Further, the Exchange believes the policy concerns Congress sought to address in Section 11(a) of the Act,[42] the time and place advantage members on exchange floors have over non-members off the floor and the general public, are not present for these various transactions entered into BOX where it is executed on the BOX Book or through the PIP.

The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposal will result in increased liquidity available at improved prices, with competitive pricing outside the control of the Initiating Participant. The proposed rule change should promote and foster competition and provide more options contracts with the opportunity for price improvement. As a result of the increased opportunities for price improvement, the Exchange believes that Participants will increasingly use PIP so that more customer orders are provided the opportunity to receive price improvement over the NBBO.

The Exchange notes that submitting orders to the PIP is voluntary for BOX Options Participants. Additionally, the Exchange notes that several competing options exchanges offer mechanisms similar to the PIP, to which any market participant may choose to submit its matched customer orders. Based on all of the above, the Exchange believes the proposed rule change does not place an undue burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposal will result in increased liquidity available at improved prices, with competitive pricing outside the control of the Initiating Participant. The proposed rule change should promote and foster competition and provide more options contracts with the opportunity for price improvement. As a result of the increased opportunities for price improvement, the Exchange believes that Participants will increasingly use PIP so that more customer orders are provided the opportunity to receive price improvement over the NBBO.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File

[36] 17 CFR 240.11a2–2(T)(a)(2)(iii).

[37] *See* generally April 1978 Release, *supra* n. 7.

[38] *Id.*

[39] *See* Order approving rules of Boston Options Exchange, *supra* n. 12.

[40] 17 CFR 240.11a2–2(T)(a)(2)(iv).

[41] *See* Exchange Rule 4140.

[42] 15 U.S.C. 78k(a).

No. SR–BOX–2012–003 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 No. SR–BOX–2012–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BOX–2012–003 and should be submitted on or before August 30, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–19489 Filed 8–8–12; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections, and one new information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA) Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OPLM.RCO@ssa.gov*.

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 9, 2012. Individuals can obtain copies of the collection instrument by writing to the above email address.

Statement of Care and Responsibility for Beneficiary—20 CFR 404.2020, 404.2025, 408.620, 408.625, 416.620, 416.625—0960–0109. SSA uses the information from Form SSA–788 to verify payee applicants' statements of concern and to identify other potential payees. SSA is concerned with selecting the most qualified representative payee who will use Social Security benefits in the beneficiary's best interest. SSA considers factors such as the payee applicant's capacity to perform payee duties, awareness of the beneficiary's situation and needs, demonstration of past and current concern for the beneficiary's well-being, etc. If the payee applicant does not have custody of the beneficiary, SSA will obtain information from the custodian for evaluation against information provided by the applicant. Respondents are individuals who have custody of the beneficiary in cases where someone else has filed to be the beneficiary's representative payee.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–788	130,000	1	10	212,667

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than September 10, 2012. Individuals can obtain copies of the OMB clearance packages by writing to *OPLM.RCO@ssa.gov.*

1. *Automated Scheduling Application (ASA)—20 CFR 404.929, 404.936, 404.950, 416.1429, 416.1436, and 416.1450–416.1451—0960–NEW.* SSA is creating an online-based scheduling tool, the Automated Scheduling Application (ASA), to document the availability and special needs of participants for hearings before administrative law judges (ALJ). The respondents are disability applicants or recipients, ALJ staff, SSA Hearing Office employees, appointed representatives, medical experts, vocational experts, and verbatim hearing recorders who need to schedule or request special needs related to an ALJ hearing. All respondents will use the ASA system (via SSA's Intranet for SSA employees, and a public-facing Internet site for members of the public) to document their hearings availability and needs, and to view scheduled hearings in an electronic calendar. SSA staff will

[43] 17 CFR 200.30–3(a)(12).

provide technical support to external users via our 800 number.

Type of Request: This is a new information collection request.

Respondent type	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
Medical Experts, Vocational Experts, Hearing Reporters—Availability Reporting Using External ASA	3,300	52	(171,600)	8	22,880
Appointed Representatives—Availability Reporting Using External ASA	16,600	52	(863,200)	8	115,093
Medical Experts, Vocational Experts, Hearing Reporters—Requests to HO To Change Availability Using Internal ASA	3,300	6	(19,800)	8	2,640
Appointed Representatives—Requests to HO To Change Availability Using Internal ASA	16,600	6	(99,600)	8	13,280
Totals	39,800		(1,154,200)		153,893

2. *Statement of Claimant or Other Person—20 CFR 404.702 & 416.570—0960–0045.* In cases where claimants or others want to share information relating to Supplemental Security Income (SSI) or Social Security benefits, and SSA has no standard form to document this information, the agency uses Form SSA–795. The agency documents whatever information the claimant or other member of the public provides, and considers it when processing benefits claims or when making decisions on ongoing issues relating to the above programs. The respondents are applicants or recipients of SSI or Social Security benefits, or others who are in a position to provide relevant information on an existing claim or case.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–795	305,500	1	15	76,375

3. *Disability Report—Adult—20 CFR 404.1512 and 416.912—0960–0579.* State Disability Determination Services (DDS) use the SSA–3368 and its electronic versions to determine if adult disability applicants' impairments are severe and, if so, how the impairments affect the applicants' ability to work. This determination dictates whether the DDSs and SSA will find the applicant to be disabled and entitled to SSI payments. The respondents are applicants for title II disability benefits or title XVI SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Collection method	Number of respondents	Frequency of response	Average burden per responses (minutes)	Estimated annual burden (hours)
SSA–3368 (Paper Form)	29,072	1	60	29,072
Electronic Disability Collect System (EDCS)	2,853,426	1	60	2,853,426
i3368 (Internet)	421,226	1	90	631,839
Totals	3,303,724			3,514,337

4. *Social Security Number Verification Services—20 CFR 401.45—0960–0660.* Internal Revenue Service regulations require employers to provide wage and tax data to SSA using Form W–2 or its electronic equivalent. As part of this process, the employer must furnish the employee's name and Social Security number (SSN). In addition, the employee's name and SSN must match SSA's records for SSA to post earnings to the employee's earnings record, which SSA maintains. SSA offers the Social Security Number Verification Service (SSNVS), which allows employers to verify that the reported names and SSNs of their employees match those in SSA's records. SSNVS is a cost-free method for employers to verify employee information either through the Internet or via telephone. The respondents are employers who need to verify SSN data using SSA's records. This is a correction notice: SSA published incorrect burden information for this collection at 77 FR 29441, on 5/17/12. We are correcting this error here.

Type of Request: Revision of an OMB-approved information collection.

Verification system	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
SSNVS	52,157	57	(2,972,949)	5	247,746
SSNVS Telephone	6,000	2	(12,000)	10	2,000
Totals	58,157		(2,984,949)		249,746

5. *Statement of Reclamation Action—31 CFR 210—0960–0734.* Regulations governing the Federal Government Participation in the Automated Clearing House (1) allow SSA to send Social Security payments to Canada and (2) mandate the reclamation of funds paid erroneously to a Canadian bank or financial institution after the death of a Social Security beneficiary. SSA uses Form SSA–1713, Notice of Reclamation Action, to determine if, how, and when the Canadian bank or financial institution will return erroneous payments after the death of a Social Security beneficiary who elected to have payments sent to Canada. Form SSA–1712 (or SSA–1712 CN), Notice of Reclamation—Canada Payment Made in the United States, is the cover sheet SSA prepares to request return of the payment. The respondents are Canadian banks and financial institutions who erroneously received Social Security payments.

Type of Request: Revision of an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1713	15	1	5	1

6. *Electronic Records Express (Third Parties)—20 CFR 404.1700–404.1715—0960–0767.* Electronic Records Express (ERE) is an online system that enables medical providers and various third-party representatives to download and submit disability claimant information electronically to SSA as part of the disability application process. To ensure only authorized people access ERE, SSA requires third parties to complete a unique registration process if they wish to use this system. This Information Collection Request (ICR) includes the third-party registration process; the burden for submitting evidence to SSA is part of other, various ICRs. The respondents are third-party representatives of disability applicants or recipients who want to use ERE to electronically access clients' disability files online and submit information to SSA.

Type of Request: Revision to an OMB-approved information collection.

Collection instrument	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
ERE	9,000	283	(2,547,000)	1	42,450

Dated: August 6, 2012.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2012–19493 Filed 8–8–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7976]

30-Day Notice of Proposed Information Collection: Civilian Response Corps Database In-Processing Electronic Form, OMB Control Number 1405–0168, Form DS–4096

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Civilian Response Corps Database In-Processing Electronic Form.
- *OMB Control Number:* 1405–0168.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Conflict and Stabilization Operations (CSO).
- *Form Numbers:* DS–4096.
- *Respondents:* Individuals who are members of or apply for one or more of the three components of the Civilian Response Corps (Active, Standby and Expert Corps).
- *Estimated Number of Respondents:* 2,000 per year.
- *Estimated Number of Responses:* 2,000 per year.
- *Average Hours per Response:* 1 hour.
- *Total Estimated Burden:* 2,000 Hours.
- *Frequency:* On occasion.
- *Obligation To Respond:* Required to receive benefits.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from August 9, 2012.

ADDRESSES: You may submit comments and request for further information by either of the following methods:

- *Email: CRCcomments@state.gov.*
- *Mail (paper, disk, or CD–ROM submissions):* CRC Comments, Suite 1150, 1800 North Kent Street, Rosslyn, VA 22202.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from John Tuten CRC Comments, Suite 1150, 1800 North Kent Street, Rosslyn, VA 22202, who may be reached on 571–344–6024 or at *tutenjc@state.gov*.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of Proposed Collection

The information collected is an important part of the Department's responsibility to coordinate U.S. Government planning; institutionalize U.S. conflict prevention and stabilization capacity; and help stabilize societies in transition from conflict or civil strife so they can reach a sustainable path toward peace, democracy, and a market economy. The information gathered will be used to identify Civilian Response Corps members who are available to participate in CRC missions.

Methodology

Respondents will complete an electronic DS–4096 application via the Web site (*www.crs.state.gov*).

Dated: August 2, 2012.

Scott N. Decker,

Deputy Director, Office of Civilian Response Corp, Bureau of Conflict & Stabilization Operations, Department of State.

[FR Doc. 2012–19562 Filed 8–8–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 7975]

In the Matter of the Designation of Azzam Abdullah Zureik Al-Maulid Al-Subhi, Also Known as Azzam al-Subhi, Also Known as Mansur al-Harbi, Also Known as Azam Abdullah Razeeq Al Mouled Alsbhua, Also Known as Abu Muslem al-Maky, Also Known as Abu Suliman al-Harbi, Also Known as Abu Abdalla al-Harbi, Also Known as Azam A.R. Alsbhua; as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended.

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Azzam Abdullah Zureik Al-Maulid Al-Subhi, also known as Azzam al-Subhi, also known as Mansur al-Harbi, also known as Azam Abdullah Razeeq Al Mouled Alsbhua, also known as Abu Muslem al-Maky, also known as Abu Suliman al-Harbi, also known as Abu Abdalla al-Harbi, also known as Azam A.R. Alsbhua, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in Section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: July 18, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–19563 Filed 8–8–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending July 21, 2012

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2012–0119.

Date Filed: July 17, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 7, 2012.

Description:

Application of Rizon Qatar Company W.L.L. (''Rizon Jet'') requesting a foreign air carrier permit to engage in charter foreign air transportation of persons and property between any point or points in the United States and any point or points in Qatar. Rizon Jet also requests exemption authority to engage in the above-described operations pending issuance of its foreign air carrier permit.

Docket Number: DOT–OST–2012–0127.

Date Filed: July 19, 2012.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 9, 2012.

Description: Application of PrivatAir GmbH requesting a foreign air carrier permit to engage in charter foreign air transportation of persons, property and mail co-extensive with the rights conferred on E.U. carriers by the U.S.-E.U. Air Transport Agreement, as follows: (i) From any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (ii) between any point or points in the United States and any point or points in

any member of the European Common Aviation Area, and (iii) other charters.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Alternate Federal Register Liaison.

[FR Doc. 2012–19586 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. DOT–OST–2012–0124]

Notice of Transportation Services' Transition From Paper to Electronic Fare Media Comments, Response to Public Comments, and Final Notification

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: On March 29, 2011, and April 2, 2012, U.S. Department of Transportation's Office of Transportation Services (TRANServe), located within the Office of the Assistant Secretary for Administration, published for public comment Notices of the adoption of a new program distribution methodology for transit benefits. To date, TRANServe has implemented its plan in three of the eight TRANServe Services Areas and continues to implement electronic fare media across the United States, ensuring that the implementation in the remaining five TRANServe Service Areas is consistent with applicable statutes and regulations. TRANServe's plan is a two-year initiative designed to be responsive to industry changes and technological advances. Over time, many State and local transit authorities are transitioning, or have already transitioned, to electronic fare media, compelling the shift from a paper based system (vouchers) to an electronic fare media structure. Now that the **Federal Register** notification process is final, TRANServe will continue to engage all appropriate stakeholders through outreach and communication for assistance and advice.

FOR FURTHER INFORMATION CONTACT: Ms. Denise P. Wright, Business Office Manager, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On March 29, 2011, and April 2, 2012, TRANServe published for public comment Notices of its intent to adopt a new program distribution methodology for transit benefits. TRANServe provides service to over 250,000 transit benefit participants employed by over 100 federal organizations nationwide. Since the program's inception, TRANServe has distributed the qualified transportation fringe benefit to participating Federal employees via a paper voucher process. In addition to a growing number of participants, many State and local transit authorities are transitioning, or have already transitioned, to electronic fare media, compelling the shift from a paper based system (vouchers) to an electronic fare media structure. TRANServe has also experienced rising program costs related to inventory, travel, and infrastructure support, requiring that TRANServe adopt a new distribution method from paper to electronic fare media. As a result, TRANServe is implementing an efficient and effective electronic fare media transition to its participating transit benefit agencies, consistent with statutory requirements in 49 U.S.C. 327, Administrative Working Capital Fund; 26 U.S.C. 132(f), Qualified Transportation Fringe; 31 U.S.C. 3302, Custodians of Money; Federal Employees Clean Air Incentives Act (Pub. L. 103–172); and Executive Order 13150, Federal Workforce Transportation. To date, for instance, TRANServe has shifted to electronic fare media in the following three of the eight TRANServe Service Areas:

Service Area 1—Washington, DC, Maryland, and Virginia.

Service Area 2 (Southeast)—Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, and Louisiana.

Service Area 3 (Upper Midwest)—Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, West Virginia, Kentucky, Virgin Islands, and Puerto Rico.

TRANServe intends to continue the implementation of electronic fare media across the United States within the five remaining areas, ensuring that such implementation is consistent with applicable statutes and regulations.

II. Discussion of Public Comments Received on TRANServe's Adoption of a New Program Distribution Methodology for Transit Benefits

This section presents a summary of the significant comments submitted regarding the **Federal Register** Notices published on March 29, 2011, and April 2, 2012 on TRANServe's adoption of a new program distribution methodology for transit benefits and TRANServe's responses to those comments. TRANServe had received comments from interested individuals prior to this opportunity to comment. To provide a level playing field, TRANServe addresses all stakeholders' comments, if applicable, via these overarching responses.

Comment: TRANServe should develop a method to allow federal employees to add funds to their benefit cards, possibly through a credit or debit card transaction, so the TRANServe benefit card could be used to pay for monthly passes that cost over $125.

Response: The U.S. Department of Treasury is the Administrator of the US Debit Card (USDC) Program, under which TRANServe has established the TRANServe Debit Card. Currently, the Treasury USDC Program does not offer a card product that delivers federal payments via a card with the capability of adding personal funds.

Comment: Suggest that TRANServe advise transit agencies of any changes or additions to their Bank Identification Number (BIN).

Response: TRANServe does not anticipate changes to the BIN number. But if there are any changes, TRANServe will continue to work with transit agencies for a smooth transition.

Comment: Commenters remarked that they would be willing to assist TRANServe in the adoption of an electronic distribution system through consultation and outreach.

Response: This **Federal Register** Notice comment period has provided an opportunity for stakeholders to assist and advise TRANServe as it transitions to electronic fare media for its participating agencies. However, TRANServe notes that there is no overarching Federal Agency responsible for Policy regarding the Transit Benefit Program.

Comment: Define Electronic Fare Media.

Response: TRANServe intends that the term ''Electronic Fare Media'' means electronic media that are excluded from gross income Section 132(a)(5) and 132(f) of the Internal Revenue Code and may encompass smartcards, debit or credit cards, or other electronic media that meet the applicable requirements.''

Comment: Does TRANServe intend to load smart cards for any transit agencies other than WMATA? If so, which ones?

Response: At this time, TRANServe does not plan to load smart cards for any transit agency other than WMATA. However, TRANServe will take whatever steps are necessary to ensure that its new program distribution methodology for transit benefits is consistent with applicable legal requirements.

Comment: Commenters inquired whether the TRANServe debit card is compliant with IRS Revenue Ruling 2006–57, as modified, which requires the cards to be restricted to sales terminals selling fare media only?

Response: The TRANServe debit card continues to be compliant with Internal Revenue Code Section 132(f) and the applicable regulations, and is consistent with how those requirements are applied in IRS Revenue Ruling 2006–57 to certain factual situations.

Comment: Commenters asked about transaction monitoring, the restriction process developed for monitoring compliance, and how the TRANServe card would be protected to reduce fraudulent use.

Response: The restriction process was developed through comprehensive analysis of IRS Revenue Ruling 2006–57, which provides guidance on the use of smartcards, debit or credit cards, or other electronic media under various situations to provide qualified transportation fringes, as well as analysis of other governing statutes, regulations, and policies. Consistent with the Office of Management and Budget Circular A–123, Management's Responsibility for Internal Control, TRANServe and participating agencies have the responsibility for monitoring compliance. Additionally, transaction monitoring takes place through various means, to include but not limited to, system activity monitoring, data mining, anomaly reporting, etc. In order to reduce or mitigate fraudulent activity, the TRANServe debit card is issued with the participant's name, is restricted to use with transit providers, returns unused funds to the Federal government at the end of each period, and provides detailed reporting of anomalies to permit follow-up action and system adjustments.

Comment: Will nationwide rollout of this card, and corresponding monthly sweeping, create additional administrative issues at a time when DOT is seeking to reduce admin costs?

Response: No. There are different administrative tasks with the introduction and use of the TRANServe debit card; however, TRANServe anticipates a decrease in administrative costs and better efficiencies in the long run.

Comment: How will TRANServe administer its bicycle benefit program using ''Electronic Fare Media?

Response: TRANServe does not administer its bicycle benefit program using electronic fare media.

Comment: Please indicate how 49 U.S.C. 327, Administrative Working Capital Fund; 26 U.S.C. 132(f), Qualified Transportation Fringe; 31 U.S.C. 3302, Custodians of Money; Federal Employees Clean Air Incentives Act (Pub. L. 103–172); and Executive Order 13150, Federal Workforce Transportation require DOT to switch to ''Electronic Fare Media''?

Response: The statutes and regulations mentioned do not require DOT to switch to Electronic Fare Media. In order to better serve its customers, TRANServe is responding to transit authority changes and technological advances, which are expected to reduce administrative costs and aid in the monitoring of the appropriate use of transit benefits.

Comment: How will employees using vanpools, buses, etc. be able to access their transit benefits?

Response: A growing number of State and local transit authorities are transitioning to electronic methods of payment. As explained above, the TRANServe Debit Card is now being used to distribute the transit benefit to federal employees in several geographic service areas. TRANServe recognizes that some transit providers have not yet implemented technologies that permit electronic payments. In each instance, TRANServe will continue to provide a limited paper voucher process while working with the transit provider towards acceptance of electronic payments, when appropriate.

Comment: Commenters asked about the cost to administer the TRANServe program; how it compares with, or whether it is duplicate of, similar programs in the private sector; and whether TRANServe has investigated contracting its transit benefit program to a third party vendor to reduce its administrative costs and overhead.

Response: The TRANServe Program is a fee-for service organization, which operates on a breakeven basis. TRANServe along with other Federal government agencies operate under specific statutory restrictions and authorities that only reside with and apply to the Federal government. Thus, TRANServe does not duplicate private sector services. When it is cost effective and programmatically feasible, TRANServe contracts out services that are not inherently governmental. In terms of the transition to electronic fare media, TRANServe is taking advantage of technological advances in the industry that are expected to reduce administrative costs, while assisting in the monitoring of the appropriate use of transit benefits.

Issue date August 6, 2012.

Marie Petrosino-Woolverton,

Director, Office of Financial Management & Transit Benefit Programs.

[FR Doc. 2012–19584 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No FMCSA–2011–0097]

Pilot Program on NAFTA Trucking Provisions

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

ACTION: Notice; request for public comment.

SUMMARY: FMCSA announces and requests public comment on data and information concerning the Pre-Authorization Safety Audit (PASA) for GCC Transportes SA de CV (GCC) which applied to participate in the Agency's long-haul pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the municipalities on the international border or the commercial zones of such municipalities. This action is required by the ''U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007'' and all subsequent appropriations.

DATES: Comments must be received on or before August 20, 2012.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2011–0097 by any one of the following methods: *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, (M–30), U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Ground Floor, Room 12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. All submissions must include the Agency name and docket number for this notice. See the ''Public Participation'' heading below for instructions on submitting comments and additional information.

Note that all comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov.* Please see the ''Privacy Act'' heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground floor of the DOT Headquarters Building at 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act System of Records Notice for the DOT Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

Public Participation: The *http://www.regulations.gov* Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* Web site. Comments received after the comment closing date will be included in the docket, and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Marcelo Perez, FMCSA, North American Borders Division, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone (512) 916–5440 Ext. 228; email *marcelo.perez@dot.gov*.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2007, the President signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (the Act), (Pub. L. 110–28, 121 Stat. 112, 183, May 25, 2007). Section 6901 of the Act requires that certain actions be taken by the Department of Transportation (the Department) as a condition of obligating or expending appropriated funds to grant authority to Mexico-domiciled motor carriers to operate beyond the municipalities in the United States on the United States-Mexico international border or the commercial zones of such municipalities (border commercial zones).

On July 8, 2011, FMCSA announced in the **Federal Register** [76 FR 40420] its intent to proceed with the initiation of a U.S.-Mexico cross-border long-haul trucking pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the border commercial zones as detailed in the Agency's April 13, 2011, **Federal Register** notice [76 FR 20807]. The pilot program is a part of FMCSA's implementation of the North American Free Trade Agreement (NAFTA) cross-border long-haul trucking provisions in compliance with section 6901(b)(2)(B) of the Act. FMCSA reviewed, assessed, and evaluated the required safety measures as noted in the July 8, 2011, notice and considered all comments received on or before May 13, 2011, in response to the April 13, 2011, notice. Additionally, to the extent practicable, FMCSA considered comments received after May 13, 2011.

In accordance with section 6901(b)(2)(B)(i) of the Act, FMCSA is required to publish in the **Federal Register**, and provide sufficient opportunity for public notice and comment comprehensive data and information on the PASAs conducted of motor carriers domiciled in Mexico that are granted authority to operate beyond the border commercial zones. This notice serves to fulfill this requirement.

FMCSA is publishing for public comment the data and information relating to one PASA that was completed on February 10, 2012. FMCSA announces that the Mexico-domiciled motor carrier in Table 1 successfully completed the PASA. Notice of this completion was also published in the FMCSA Register.

Tables 2, 3 and 4 all titled (''Successful Pre-Authorization Safety Audit (PASA) Information'') set out additional information on the carrier(s) noted in Table 1. A narrative description of each column in the tables is provided as follows:

A. *Row Number in the Appendix for the Specific Carrier:* The row number for each line in the tables.

B. *Name of Carrier:* The legal name of the Mexico-domiciled motor carrier that applied for authority to operate in the United States (U.S.) beyond the border commercial zones and was considered for participation in the long-haul pilot program.

C. *U.S. DOT Number:* The identification number assigned to the Mexico-domiciled motor carrier and required to be displayed on each side of the motor carrier's power units. If granted provisional operating authority, the Mexico-domiciled motor carrier will be required to add the suffix ''X'' to the ending of its assigned U.S. DOT Number for those vehicles approved to participate in the pilot program.

D. *FMCSA Register Number:* The number assigned to the Mexico-domiciled motor carrier's operating authority as found in the FMCSA Register.

E. *PASA Initiated:* The date the PASA was initiated.

F. *PASA Completed:* The date the PASA was completed.

G. *PASA Results:* The results upon completion of the PASA. The PASA receives a quality assurance review before approval. The quality assurance process involves a dual review by the FMCSA Division Office supervisor of the auditor assigned to conduct the PASA and by the FMCSA Service Center New Entrant Specialist designated for the specific FMCSA Division Office. This dual review ensures the successfully completed PASA was conducted in accordance with FMCSA policy, procedures and guidance. Upon approval, the PASA results are uploaded into the FMCSA's Motor Carrier Management Information System (MCMIS). The PASA information and results are then recorded in the Mexico-domiciled motor carrier's safety performance record in MCMIS.

H. *FMCSA Register:* The date FMCSA published notice of a successfully completed PASA in the FMCSA Register. The FMCSA Register notice advises interested parties that the application has been preliminarily granted and that protests to the application must be filed within 10 days of the publication date. Protests are filed with FMCSA Headquarters in Washington, DC. The notice in the FMCSA Register lists the following information:

a. Current registration number (e.g., MX–123456);

b. Date the notice was published in the FMCSA Register;

c. The applicant's name and address; and

d. Representative or contact information for the applicant.

The FMCSA Register may be accessed through FMCSA's Licensing and Insurance public Web site at *http://li-public.fmcsa.dot.gov/*, and selecting FMCSA Register in the drop down menu.

I. *U.S. Drivers:* The total number of the motor carrier's drivers approved for long-haul transportation in the United States beyond the border commercial zones.

J. *U.S. Vehicles:* The total number of the motor carrier's power units approved for long-haul transportation in

the United States beyond the border commercial zones.

K. *Passed Verification of 5 Elements (Yes/No):* A Mexico-domiciled motor carrier will not be granted provisional operating authority if FMCSA cannot verify all of the following five mandatory elements. FMCSA must:

a. Verify a controlled substances and alcohol testing program consistent with 49 CFR part 40.

b. Verify a system of compliance with hours-of-service rules of 49 CFR part 395, including recordkeeping and retention;

c. Verify the ability to obtain financial responsibility as required by 49 CFR part 387, including the ability to obtain insurance in the United States;

d. Verify records of periodic vehicle inspections; and

e. Verify the qualifications of each driver the carrier intends to use under such authority, as required by 49 CFR parts 383 and 391, including confirming the validity of each driver's Licencia Federal de Conductor and English language proficiency.

L. *If No, Which Element Failed:* If FMCSA cannot verify one or more of the five mandatory elements outlined in 49 CFR part 365, Appendix A, Section III, this column will specify which mandatory element(s) cannot be verified.

Please note that for items L through P below, during the PASA, after verifying the five mandatory elements discussed in item K above, FMCSA will gather information by reviewing a motor carrier's compliance with ''acute and critical'' regulations of the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs). Acute regulations are those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier. Critical regulations are those where noncompliance relates to management and/or operational controls. These regulations are indicative of breakdowns in a carrier's management controls. A list of acute and critical regulations is included in 49 CFR part 385, Appendix B, Section VII.

Parts of the FMCSRs and HMRs having similar characteristics are combined together into six regulatory areas called ''factors.'' The regulatory factors are intended to evaluate the adequacy of a carrier's management controls.

M. *Passed Phase 1, Factor 1:* A ''yes'' in this column indicates the carrier has successfully met Factor 1 (listed in part 365, Subpart E, Appendix A, Section IV(f)). Factor 1 includes the General Requirements outlined in parts 387 (Minimum Levels of Financial Responsibility for Motor Carriers) and 390 (Federal Motor Carrier Safety Regulations—General).

N. *Passed Phase 1, Factor 2:* A ''yes'' in this column indicates the carrier has successfully met Factor 2, which includes the Driver Requirements outlined in parts 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards; Requirements and Penalties) and 391 (Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors).

O. *Passed Phase 1, Factor 3:* A ''yes'' in this column indicates the carrier has successfully met Factor 3, which includes the Operational Requirements outlined in parts 392 (Driving of Commercial Motor Vehicles) and 395 (Hours of Service of Drivers).

P. *Passed Phase 1, Factor 4:* A ''yes'' in this column indicates the carrier has successfully met Factor 4, which includes the Vehicle Requirements outlined in parts 393 (Parts and Accessories Necessary for Safe Operation) and 396 (Inspection, Repair and Maintenance) and vehicle inspection and out-of-service data for the last 12 months.

Q. *Passed Phase 1, Factor 5:* A ''yes'' in this column indicates the carrier has successfully met Factor 5, which includes the hazardous material requirements outlined in parts 171 (General Information, Regulations, and Definitions), 177 (Carriage by Public Highway), 180 (Continuing Qualification and Maintenance of Packagings) and 397 (Transportation of Hazardous Materials; Driving and Parking Rules).

R. *Passed Phase 1, Factor 6:* A ''yes'' in this column indicates the carrier has successfully met Factor 6, which includes Accident History. This factor is the recordable accident rate during the past 12 months. A recordable ''accident'' is defined in 49 CFR 390.5, and means an accident involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in a fatality; a bodily injury to a person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

S. *Number U.S. Vehicles Inspected:* The total number of vehicles (power units) the motor carrier is approved to operate in the United States beyond the border commercial zones that received a vehicle inspection during the PASA. During a PASA, FMCSA inspected all power units to be used by the motor carrier in the pilot program and applied a current Commercial Vehicle Safety Alliance (CVSA) inspection decal, if the inspection is passed successfully. This number reflects the vehicles that were inspected, irrespective of whether the vehicle received a CVSA inspection at the time of the PASA decal as a result of a passed inspection.

T. *Number U.S. Vehicles Issued CVSA Decal:* The total number of inspected vehicles (power units) the motor carrier is approved to operate in the United States beyond the border commercial zones that received a CVSA inspection decal as a result of an inspection during the PASA.

U. *Controlled Substances Collection:* Refers to the applicability and/or country of origin of the controlled substance and alcohol collection facility that will be used by a motor carrier that has successfully completed the PASA.

a. ''US'' means the controlled substance and alcohol collection facility is based in the United States.

b. ''MX'' means the controlled substance and alcohol collection facility is based in Mexico.

c. ''Non-CDL'' means that during the PASA, FMCSA verified that the motor carrier is not utilizing commercial motor vehicles subject to the commercial driver's license requirements as defined in 49 CFR 383.5 (Definition of Commercial Motor Vehicle). Any motor carrier that does not operate commercial motor vehicles as defined in § 383.5 is not subject to DOT controlled substance and alcohol testing requirements.

V. *Name of Controlled Substances and Alcohol Collection Facility:* Shows the name and location of the controlled substances and alcohol collection facility that will be used by a Mexico-domiciled motor carrier who has successfully completed the PASA.

TABLE 1

Row number in Tables 2, 3 and 4 of the Appendix to today's notice	Name of carrier	USDOT No.
1	GCC Transportes SA de CV	650155

TABLE 2—SUCCESSFUL PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION

[See also Tables 3 and 4]

Column A—row No.	Column B—Name of carrier	Column C—U.S. DOT No.	Column D—FMCSA register No.	Column E—PASA initiated	Column F—PASA completed	Column G—PASA results	Column H—FMCSA register	Column I—U.S. drivers	Column J—U.S. vehicles
1	GCC Transportes SA de CV	650155	MX–7001100	12/8/11	3/14/12	Pass	7/27/12	9	13

TABLE 3—SUCCESSFUL PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION

[See also Tables 2 and 4]

Column A—row No.	Column B—name of carrier	Column C—U.S. DOT No.	Column D—FMCSA register No.	Column K—Passed verification of 5 elements (yes/no)	Column L—if no, which element failed	Column M—passed phase 1 factor 1	Column N—passed phase 1 factor 2	Column O—passed phase 1 factor 3	Column P—passed phase 1 factor 4
1	GCC Transportes SA de CV	650155	MX–701100	Yes	N	Pass	Pass	Pass	Pass.

TABLE 4—SUCCESSFUL PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION AS OF SEPTEMBER 9, 2011

[See also Tables 2 and 3]

Column A—row No.	Column B—name of carrier	Column C—U.S. DOT No.	Column D—FMCSA register No.	Column Q—passed phase I factor 5	Column R—passed phase I factor 6	Column S—number U.S. vehicles inspected	Column T—number U.S. vehicles issued CVSA decal	Column U—controlled substance collection	Column V—name of controlled substances and alcohol collection facility
1	GCC Transportes SA de CV.	650155	MX–701100	N/A	Pass	13	13	U.S.	RI-Tech Drug Testing.

The Agency acknowledges that through the PASA process it determined that GCC has affiliations with additional companies. An attachment to the PASA provides information regarding these affiliations. During the carrier vetting and PASA process, FMCSA reviewed its records related to the affiliates, and confirmed that the companies are in good standing.

In an effort to provide as much information as possible for review, the application and PASA results for this carrier are posted at the Agency's Web site for the pilot program at *http://www.fmcsa.dot.gov/intl-programs/trucking/Trucking-Program.aspx.* For carriers that participated in the Agency's demonstration project that ended in 2009, copies of the previous PASA and compliance review, if conducted, are also posted. All documents were redacted so that personal information regarding the drivers is not released. Sensitive business information, such as the carrier's tax identification number, is also redacted. In response to previous comments received regarding the PASA notice process, FMCSA also posted copies of the vehicle inspections conducted during the PASA in the PASA document.

A list of the carrier's vehicles approved by FMCSA for use in the pilot program is also available at the above referenced Web site.

FMCSA notes that the drivers proposed by the carrier for participation in the pilot program were tested for English language proficiency during the PASA and were found to be proficient. However, two of the proposed drivers have been recently cited for violations of 49 CFR 392.11(b)(2) during transportation in the border commercial zone. FMCSA brought this issue to GCC's attention, and GCC advised FMCSA that it sent the drivers to additional training to improve their English language proficiency.

The Agency also notes that GCC has been cited for violations of the FMCSRs during the last 24 months and the company is above the Agency's intervention threshold in the Driver Fitness basic within the Agency's Safety Measurement System. This Driver Fitness score generally results from citations for drivers failing to adequately communicate in English. As noted above FMCSA has determined that each of the drivers designated to participate in the Pilot Program is able to read and speak the English language sufficiently to comply with our regulation. In addition GCC has advised FMCSA that it is providing additional training to their drivers to improve their English language proficiency. Therefore, while the SMS score above the intervention threshold is a concern that will be monitored, under these circumstances, we do not believe it constitutes an indication that the carrier is not willing or able to comply with our regulations and the requirements of the Pilot Program. The majority of the remaining cited violations relate to vehicle maintenance issues. Further, FMCSA reviewed the violations cited, and determined that the only violation on a vehicle proposed for the pilot program was due to low air in a tire and this defect was remedied.

Lastly, FMCSA is aware that companies affiliated with GCC have had SMS alerts. However, the Agency has confirmed that GCC Transportes was not established to evade or conceal a negative safety performance history by

those companies. The Agency monitors the safety of the affiliated carriers through SMS and will take action on those carriers, as appropriate.

To date, no carriers have failed the PASA. The Act only requires publication of data for carriers receiving operating authority, as failure to successfully complete the PASA precludes the carrier from being granted authority to participate in the long-haul pilot program. FMCSA will publish this information to show motor carriers that failed to meet U.S. safety standards.

Request for Comments

In accordance with the Act, FMCSA requests public comment from all interested persons on the PASA information presented in this notice. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, the FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

FMCSA notes that under its regulations, preliminary grants of authority, pending the carrier's showing of compliance with insurance and process agent requirements and the resolution of any protests, are publically noticed through publication in the FMCSA Register. Any protests of such grants must be filed within 10 days of publication of notice in the FMCSA Register.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2012–19564 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0006; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of Petition.

SUMMARY: General Motors, LLC (GM) [1] has determined that certain model year 2012; Cadillac SRX, Chevrolet Equinox, GMC Terrain and Saab 9–4x multipurpose passenger vehicles, and Chevrolet Cruze passenger cars, do not fully comply with paragraph S19.2.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection.* GM has filed an appropriate report dated September 6, 2011, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Vehicles involved: approximately 3,599 Cadillac SRX, 11,459 Chevrolet Equinox, 5,080 GMC Terrain and 24 Saab 9–4x multipurpose passenger vehicles; and 27,392 Chevrolet Cruze passenger cars. All of the vehicles are model year 2012 and were manufactured within the period from April 6, 2011 through August 20, 2011.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 47,554 [2] model year vehicles that GM no longer controlled at the time it determined that the noncompliance existed.

Noncompliance: GM explains that the noncompliance is that on rare occasions, the air bag suppression telltale on the subject vehicles may remain illuminated during a particular ignition cycle and indicate that the passenger air bag is OFF regardless of whether the air bag is or is not suppressed.

GM further explains that for this noncompliance condition to exist, the following must occur:

(1) The engine must be restarted within approximately 24 seconds of having been turned OFF;

(2) The key [3] must be turned rapidly, spending less than 10 milliseconds (0.01 seconds) in the RUN position before it reaches the START position; and

(3) The crank power mode (approximately how long the starter motor runs) must be less than 1.2 seconds. GM's data predicts that the conditions for a noncompliance to occur will happen, on average, approximately once every 18 months, independent of whether the front seat is occupied or not.

Rule text: Paragraph S19 of FMVSS No. 208 requires in pertinent part:

S19 Requirements to provide protection for infants in rear facing and convertible child restraints and car beds.

S19.1 Each vehicle certified as complying with S14 shall, at the option of the manufacturer, meet the requirements specified in S19.2 or S19.3, under the test procedures specified in S20.

S19.2 Option 1—Automatic suppression feature. Each vehicle shall meet the requirements specified in S19.2.1 through S19.2.3. * * *

S19.2.2 The vehicle shall be equipped with at least one telltale which emits light whenever the passenger air bag system is deactivated and does not emit light whenever the passenger air bag system is activated, except that the telltale(s) need not illuminate when the passenger seat is unoccupied. Each telltale: * * *

(h) The telltale must not emit light except when the passenger air bag is turned off or during a bulb check upon vehicle starting.

Summary of GM's Analysis and Arguments

GM stated its belief that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

A. The noncompliance does not increase the risk to motor vehicle safety because it has no effect on occupant restraint. The noncompliant condition has absolutely no effect on the proper operation of the occupant classification system. If the telltale error occurs when

[1] General Motors, LLC, is a manufacturer of motor vehicles and is registered under the laws of the state of Michigan.

[2] GM's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt GM as a motor vehicles manufacturer from the notification and recall responsibilities of 49 CFR part 573 for the 47,554 affected vehicles. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

[3] Cadillac SRX and Saab 9–4X vehicles have a push button start/stop switch.

an occupant or a Child Restraint System (CRS) is in the front passenger seat, the occupant classification system will operate as designed, and will enable or disable the air bag, as intended, and continue to meet the requirements of FMVSS No. 208 in all other regards. As a result, all occupants will continue to receive the benefit of the air bag when they otherwise would, regardless of whether or not the telltale is operating properly during a particular ignition cycle.

B. The noncompliance condition is an extremely remote event. The noncompliance condition will not occur unless the engine is shut off and restarted within about 24 seconds. Even then, the condition will not occur unless the ignition key spends less than a hundredth of a second in the RUN position before reaching the START position, and the crank power mode lasts less than 1.2 seconds. These are very prescribed, unusual conditions. GM discovered the condition during an assembly plant end of line audit when it was noted that the telltale illuminated OFF when an adult passenger was present. GM is not aware of any reports in the field about the condition.

When this condition occurs, it sets a Diagnostic Trouble Code (DTC) that is stored in history in the sensing diagnostic module for 100 ignition cycles. GM reviewed its test fleet experience for the subject vehicles, and determined that the conditions needed to produce the telltale error will occur on average once every 535 days, or approximately, once every 18 months regardless of whether the front passenger seat is occupied or not.

C. Even if the air bag was enabled when the telltale indicated it was disabled, that would be extremely unlikely to increase the risk to motor vehicle safety. A potential safety risk could exist if the telltale indicated the air bag was OFF when the air bag was actually ON and a small child or CRS was placed in the front passenger seat. As explained in more detail below, this is extremely unlikely to occur in the present case. Parents and caregivers are warned to properly restrain small children and CRSs in the rear seat, and field data shows small children and CRSs are generally not placed in the front seat. In addition, GM has conducted significant testing to help assure that the air bag suppression system will properly disable the air bag system for small children and CRSs, as designed.

1. Children and CRSs generally are not placed in the front seat. It is very unlikely that a small child or a CRS would be placed in the front seat since parents and caregivers are routinely advised by NHTSA, pediatricians, child safety advocacy groups, and public service messages to properly restrain them in the rear seat. As NHTSA states in its Child Safety Recommendations for All Ages, ''All children under 13 should ride in the back seat.''

In addition, the label on the vehicle's sun visor warns against placing a rear facing infant seat in the front passenger seat, and the owner's manual warns against placing children in the front seat, as well, even for vehicles equipped with a passenger sensing system.

Publicly available data confirms that parents and caregivers generally do not place small children in the front passenger seat. According to GM's calculations using National Accident Sampling System (NASS) data, six month old, three year old and six year old children collectively are likely to occupy the front passenger seat during less than one half of one percent of all trips. This fact, together with the infrequency with which the noncompliance condition occurs, makes it extremely unlikely that a child or CRS would be placed in the front seat when the conditions needed to produce the telltale error occur.

2. Even if a small child or CRS was in the front seat. GM has conducted extensive testing to help assure that the air bag suppression system will properly characterize these occupants, so that the air bag will be suppressed, as designed. GM has had significant field experience with suppression systems of the type used in the subject vehicles. GM has used pattern recognition based suppression systems since 2005 and capacitance based suppression systems since 2009.

GM has conducted over 15,000 tests of the suppression systems in the subject vehicles, based on FMVSS 208 as well as GM's own internal requirements, to judge performance for properly positioned as well as out of position occupants and CRSs. In each of the over 10,000 tests involving the systems in the Cruze, Equinox, Terrain and Saab 9–4X vehicles, the suppression system properly characterized the occupant or CRS and enabled or disabled the air bag system, as appropriate. The same is true in the vast majority of SRX tests.

In over 5,000 of GM's SRX tests, the air bag system was enabled or disabled as desired. In just four of GM's internal (non-FMVSS) SRX tests involving three year old dummies in a particular forward facing CRSs, the suppression system enabled the air bag. In each of these tests, the CRS was installed over a 1O mm thick blanket.

These tests have no significant bearing on the present risk analysis, since more than 98 percent of the tests involving a three year old dummy in a forward-facing CRS classified correctly, and in each of the discrepant tests, the CRS would classify correctly when installed without the blanket.

There was not a single discrepancy in the over 10,000 tests involving the Cruze, Equinox, Terrain and Saab 9–4X vehicles, representing over 92 percent of the subject vehicle population. In addition, in over 99.8 percent of the SRX tests with CRSs or occupants, the air bag system was enabled or disabled, as desired, and in the remainder of the CRS tests, the air bag system was properly suppressed when the CRS was installed according to the CRS manufacturer's instructions.

The very low rate at which the conditions needed to produce the telltale error occur, coupled with the very low chance that a small child or CRS would be located in the front seat at that time, makes the potential for any safety consequence extremely small. That potential is reduced even further since it is extremely unlikely that the noncompliance condition would occur at that same time that a CRS is being installed in the vehicle, for the first time. Anyone who used such a restraint, would in all probability, have received numerous AIR BAG ON telltale illuminations before and after the infrequent noncompliant OFF illumination, and would have moved the CRS to a rear seating location or modified the installation accordingly.

GM concludes by stating that the telltale error at issue in this petition does not increase the risk to motor vehicle safety because it has no effect on occupant restraint. The air bag classification system will continue to characterize the front seat occupants and enable or disable the air bag, as designed. In addition, the noncompliance condition will rarely occur. For the error to occur at all, the vehicle must be restarted—in a very particular manner—within less than half of one minute of having been turned off. The conditions needed to produce the telltale error are estimated to occur approximately once every 18 months. The potential for any consequence to result is further reduced by the fact that the front seat is occupied only about a quarter of the time, and by small children and CRSs, much more infrequently. Parental and caregiver education and information in the vehicle owner's manuals and labels warn against placing infants, children and CRSs in the front seat, and NASS data bears out that small children and

CRSs are placed in the front less than one percent of the time. More importantly, GM has conducted more than 10,000 tests confirming that the air bag system in over 93 percent of the subject vehicles will properly characterize occupants and CRSs, so that the air bag will or will not be suppressed, as appropriate. With respect to the remaining vehicles, the air bag system was enabled or disabled, as desired, over 99.8 percent of the time in GM's testing. Even so, the chance that a CRS would be installed in the front seat for the first time, at the same time that the noncompliance occurred, would be even more remote. GM has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 208.

In summation, GM 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.

Comments

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. *By mail addressed to:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

b. *By hand delivery to:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

c. *Electronically:* by logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/*. Follow the online instructions for submitting comments. Comments may also be faxed to 1–202–493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

DATES: *Comment Closing Date:* September 10, 2012.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

Issued on: July 30, 2012.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2012–19575 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0019; Notice 2]

Utilimaster Corporation, Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of Petition Denial.

SUMMARY: Utilimaster Corporation (Utilimaster),[1] has determined that certain model year 2009–2011 Utilimaster walk-in van-type trucks manufactured between September 1, 2009 and December 22, 2011 do not comply with paragraph S4.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 206, *Door Locks and Door Retention Components.* Utilimaster filed an appropriate report dated December 30, 2011, 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, on January 23, 2012, Spartan Motors, Inc.,[2] on behalf of Utilimaster, 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. The National Highway Traffic Safety Administration (NHTSA) published a notice of receipt of the petition, with a 30-day public comment period, on February 17, 2012, in the **Federal Register** (77 FR 9726). The only comments received were from Morgan Olson, LLC (Morgan Olson).[3] To view the petition, the comments, and all 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–2012–0019.''

Contact Information: For further information on this decision contact Mr. Tony Lazzaro, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5304, facsimile (202) 366–7002.

Relevant Requirements of FMVSS No. 206: FMVSS No. 206 paragraph S4.2.1 requires in pertinent part that each sliding door system shall be equipped with either: (a) At least one primary door latch system, or (b) a door latch system with a fully latched position and a door closure warning system. The door closure warning system shall be located where it can be clearly seen by the driver.

A ''primary door latch'' is defined in FMVSS No. 206 paragraph S3 as ''a latch equipped with both a fully latched position and a secondary latch position and is designated as a 'primary door latch' by the manufacturer.'' A ''secondary latched position'' refers to ''the coupling condition of the latch that retains the door in a partially closed position.'' FMVSS No. 206 paragraph S3.

A ''door closure warning system'' is defined in FMVSS No. 206 paragraph S3 as ''a system that will activate a visual signal when a door latch system is not in its fully latched position and the vehicle ignition system is activated.''

[1] Utilimaster Corporation, a wholly owned subsidiary of Spartan Motors, Inc., is a manufacturer of motor vehicles.

[2] Spartan Motors, Inc., is a manufacturer of motor vehicles.

[3] Morgan Olson, LLC, is a manufacturer of motor vehicles.

Vehicles involved: Affected are approximately 9,861 Utilimaster model year 2009–2011 walk-in van-type trucks.

Noncompliance: Utilimaster states that the noncompliance is that while the sliding doors on the vehicles are equipped with a door latch system (but not a ''Primary Door Latch System''), no door closure warning system, as required by paragraph S4.2.1 of FMVSS No. 206, is installed.

Summary of Utilimaster's Analysis Arguments: By way of background, Utilimaster recognizes that the sliding door latch requirements contained in paragraph S4.2.1 of FMVSS No. 206 were adopted in February 2007 as part of a broader upgrade to the Agency's existing door latch and retention requirements. *See Federal Motor Vehicle Safety Standards; Door Locks and Door Retention Components, Final Rule,* 72 FR 5385 (Feb. 6, 2007) [hereinafter 2007 Final Rule]. The effective date of these requirements was September l, 2009.

As set forth in Utilimaster's noncompliance report, Utilimaster determined that the new latch requirements applied to these vehicles, but were not designed into vehicles built after the effective date. (This omission was the result of Utilimaster's previous misinterpretation as to the applicability of the FMVSS No. 206 amendments to these particular vehicles).

Utilimaster explains that the sliding doors on the subject vehicles are equipped with a door latch that does not meet the above-referenced definition of a ''primary door latch'' because these vehicles lack a secondary latched position. Thus, these vehicles do not meet the paragraph S4.2.l(a) compliance option. Moreover, these vehicles are not equipped with a ''door closure warning system'' and, therefore, they do not meet the paragraph S4.2.l(b) compliance option. Utilimaster believes that the omission of a door closure warning system on these vehicles is inconsequential to safety due to the particular characteristics of the sliding doors on these vehicles which, in its view, will immediately provide adequate visual (and audible) feedback to the driver to alert him or her in the event a door is unlatched.

Utilimaster further states that the door has approximately 0.315 inches of engagement into the door seal. Therefore, should the sliding door not be in the latched position, it would be readily apparent to the driver before the vehicle is driven. Even if the driver did not notice the gap in the door prior to the vehicle being driven, these doors would provide immediate visual feedback to the driver as soon as the vehicle begins to move. The sliding doors on these vehicles are designed to slide longitudinally on a track when the sliding door handle is activated and a small force is applied in the same longitudinal direction. As a consequence, if the sliding door is not fully closed and latched and the driver is not aware, this condition would become immediately apparent to the driver when the vehicle is accelerated from rest, as the sliding door would glide rearward from the force created by the acceleration. Thus, while these vehicles may not meet the express requirements of paragraph S4.2.1 or the definition of a ''door closure warning system,'' Utilimaster asserts they do meet the intent of these requirements. Utilimaster also argues that the use of other visual signals, such as a dash-mounted telltale, might be necessary for vehicles with rear sliding doors, such as minivans or other passenger vehicles, but the sliding doors on the subject vehicles are located in the front within plain view of the driver.

Utilimaster further states that in adopting the upgraded sliding door standards in 2007, the Agency stated that it was particularly concerned with children riding in the rear seats of passenger vans (minivans or ''MPVs'').[4]

Utilimaster also states that these vehicles are used exclusively in commercial applications and are driven exclusively by professional drivers (primarily without a passenger). Utilimaster states that these drivers, in addition to having a commercial driver's license, have undergone highly regimented training programs and must adhere to corporate safety policies. This training requires that drivers enter and exit the vehicle from the curb side of the van and fasten the seatbelt when the vehicle is in motion. The repetitive use of the van results in highly repeatable results from one stop to the next. Utilimaster argues that the likelihood that a driver would move the vehicle with the door left inadvertently open is very low and that the likelihood that the driver would be ejected from the driver's seat, through a curb-side door, left unintentionally unlatched, is even less probable.

Utilimaster states that it is not aware of a driver or passenger of its vehicles ever having been ejected from or fallen through an open sliding cab door while the vehicle was in motion. Utilimaster also notes that walk-in vans with sliding doors very similar in design to those on the subject vehicles have been in use for several decades.

Additionally, Utilimaster argues that the sliding doors on these vehicles meet all load test and inertial requirements of FMVSS No. 206, paragraph S4.2, and therefore this noncompliance will not increase the risk of occupant ejection under conditions addressed by such requirements.

In summary, Utilimaster contends that the noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt it from providing notification of noncompliance as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120, should be granted.

Comments: NHTSA published a notice of the petition in the **Federal Register** to allow an opportunity for members of the public to present information, views, and arguments on the subject petition. As noted earlier, the only comments received were submitted by Morgan Olson, also a manufacturer of walk-in van-type trucks. Morgan Olson reported similar noncompliances with S4.2.1 of FMVSS No. 206 on January 19, 2012 and filed its own Petition for Decision of Inconsequential Noncompliance on February 10, 2012.[5] Morgan Olson commented in support of granting Utilimaster's petition for inconsequentiality. Morgan Olson echoed Utilimaster's arguments and provided information similar to that provided by Utilimaster. The Agency notes that an absence of opposing argument and data does not require the Agency to grant the petition.[6]

NHTSA'S Consideration of Utilimaster's Inconsequentiality Petition

General Principles: Federal motor vehicle safety standards are adopted only after the Agency has determined, following notice and comment, that the standards are objective and practicable and ''meet the need for motor vehicle safety.'' *See* 49 U.S.C. 30111(a). Thus, there is a general presumption that the failure of a motor vehicle or item of motor vehicle equipment to comply with a FMVSS increases the risk to motor vehicle safety beyond the level deemed appropriate by NHTSA through the rulemaking process. To protect the public from such risks, manufacturers whose products fail to comply with an FMVSS are normally required to

[4] *Federal Motor Vehicle Safety Standards; Door Locks and Door Retention Components, Final Rule,* 72 FR 5385, 5387 (Feb. 6, 2007).

[5] *Morgan Olson, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance,* 77 FR 19055 (Mar. 29, 2012).

[6] *Dorel Juvenile Group; Denial of Appeal of Decision on Inconsequential Noncompliance,* 75 FR 507, 510 (Jan. 5, 2010).

conduct a safety recall under which they must notify owners, purchasers, and dealers of the noncompliance and provide a remedy without charge. 49 U.S.C. 30118–30120. However, Congress has recognized that, under some limited circumstances, a noncompliance could be ''inconsequential'' to motor vehicle safety. ''Inconsequential'' is not defined either in the statute or in NHTSA's regulations. Rather, the Agency determines whether a particular noncompliance is inconsequential to motor vehicle safety based on the specific facts before it. The relevant issue in determining inconsequentiality is whether the noncompliance in question is likely to significantly increase the safety risk to individuals of accidents or to individual occupants who experience the type of injurious event against which the standard was designed to protect. *See General Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897 (Apr. 14, 2004).

There have been instances in the past where NHTSA has determined that a manufacturer has met its burden of demonstrating that a noncompliance is inconsequential to safety, such as noncompliances concerning labeling where the discrepancy with the safety standard was determined not to lead to any misunderstanding, especially where sources of the correct information were available (e.g. in the vehicle owner's manual). *See General Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004).

The burden of establishing the inconsequentiality of a failure to comply with a performance requirement in a standard is more substantial and difficult to meet, and the Agency has not found many such noncompliances to be inconsequential. *Id.*

Utilimaster first argues that the sliding doors are located in the front of the vehicle, viewable to the driver, and that a small gap will be apparent to the driver if a door is not fully latched. Moreover, Utilimaster asserts that even if the driver does not notice the gap in the door prior to driving the vehicle, as the vehicle begins to move the door will slide open, alerting the driver.

FMVSS No. 206 requires that a sliding door system be equipped with either (a) at least one primary door latch system, or (b) a door latch system with a fully latched position *and* a door closure warning system. Since the noncompliant vehicles are equipped with a door latch system with a fully latched position (but not a primary door latch system), in order to comply with FMVSS No. 206 the vehicles would also need to have a door closure warning system. Such a system is automatic and does not require the driver to make observations of the door. The subject vehicles do not have such a system. Without a warning system, the driver would have to look away from driving to see a door gap. The Agency does not consider a door gap to be a sufficient alert to the driver that the door is not fully latched.

The Notice of Proposed Rulemaking for the 2007 amendments to FMVSS No. 206 explained the scope of the safety risks associated with the ejection of vehicle occupants through vehicle doors. *See Federal Motor Vehicle Safety Standards; Door Locks and Door Retention Components and Side Impact Protection, Notice of Proposed Rulemaking,* 69 FR 75020, 75024–75025. The Agency noted that ''[d]oor ejections, due to non-rollover door openings, account for 23 percent of the total non-rollover ejections with known routes * * * [and of] those ejected through a sliding door, each year approximately 20 people are killed and 30 people are seriously injured, based on the 1995–2003 data from NASS.'' *Id.* Based on this safety risk analysis, the Agency concluded that ''this exposure is [not] acceptable when measures can be taken to minimize the likelihood that a sliding door would open in a crash.'' 69 FR 75025. Accordingly, the Agency proposed the FMVSS No. 206 side sliding door latch requirements to ''assure vehicle occupants that a sliding door is completely closed.'' 69 FR 75026.

Utilimaster's arguments in support of its petition do not allay these safety concerns. Utilimaster's petition acknowledges that the vehicle driver may not notice the small gap in the door before the vehicle begins to move. Moreover, having the door unexpectedly slide open while the vehicle is driven can create a potential distraction to the driver, especially considering any attempts by the driver to close the door while the vehicle is in motion. In addition, accidents can occur even at low speeds when a vehicle is accelerated into motion, and may include impact with another vehicle including a vehicle moving at higher speed. Therefore, in light of these safety risks, the Agency finds that the door gap on the subject vehicles is not an acceptable replacement for a door closure warning system.

Utilimaster also asserts that the subject vehicles are exclusively commercial in application and that the drivers of these vehicles are highly trained and must adhere to corporate-mandated safety practices. Utilimaster asserts that the sliding door standards were ''particularly concerned with children riding in the rear seats of passenger vans.'' The Agency believes that corporate operating policies and training do not preclude driver error (inadvertent or otherwise), such as operating the vehicle with the door left inadvertently open or not fastening an occupant's safety belt. Although the Agency did note in the NPRM that it was ''[a]dditionally * * * concerned that the individuals with the greatest exposure to sliding door failures are children,'' 69 FR 75025, the Agency never indicated that child passenger safety was the only safety concern addressed by the standard. Moreover, while Utilimaster states that the subject vehicles are driven primarily without a passenger, Utilimaster's petition implicitly acknowledges that a passenger may be present. In short, the Agency believes that there are valid concerns that occupants of the subject vehicles are exposed to an increased risk of accidents and injuries, particularly those associated with occupant ejection, compared to occupants of compliant vehicles.

Utilimaster also states that it is not aware of a driver or passenger of its vehicles ever having been ejected from or fallen through an open sliding cab door while the vehicle was in motion. However, the Agency is aware of at least one occupant ejection through an open sliding side door of a commercial vehicle similar to those that are the subject of this petition. A walk-in van-type delivery truck was involved in an accident in 2009 at an intersection in Florida in which the driver of the delivery truck was ejected through an open sliding side door and sustained injuries. The delivery truck, after being stopped at a stop sign, entered the intersection and struck the side of a crossing vehicle causing the vehicles to become engaged and spin together. The delivery truck driver, who was not wearing a safety belt, was ejected into the roadway.[7]

Finally, Utilimaster asserts that the sliding doors on these vehicles meet all load tests and inertial requirements of FMVSS No. 206 S4.2 and therefore, the noncompliance will not increase the risk of occupant ejection under conditions addressed by such requirements. This argument, however, is inapplicable to the issue at hand because these standards do not address the performance of an unlatched door.

[7] Florida Department of Highway Safety and Motor Vehicles; HSMV Crash Report Number 90163273, dated January 6, 2009.

See, e.g. 49 CFR 571.206 S4.2.1.1(a), S4.2.1.2(a) and S4.2.1.3(a) (discussing testing when the door latch is in the fully latched position).

Decision: In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Utilimaster's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

If Utilimaster believes that vehicles it will produce in the future should not be subject to any currently applicable FMVSS No. 206 requirements, Utilimaster may consider petitioning the Agency for rulemaking. The appropriate type of petition to request a change in a rule is one filed under 49 CFR part 552 *Petitions for Rulemaking, Defect, and Non-Compliance Orders.*

Authority: 49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8.

Issued on: August 2, 2012.

Nancy Lummen Lewis,

Associate Administrator for Enforcement.

[FR Doc. 2012–19581 Filed 8–8–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

30-Day Notice of Request for Approval: Statutory Authority To Preserve Rail Service

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek from the Office of Management and Budget (OMB) approval of the information collections required under 49 U.S.C. 10904–05 and 10907, and 16 U.S.C. 1247(d). Under these statutory provisions, the Board administers programs designed to preserve railroad service or rail rights-of-way. When a line is proposed for abandonment, affected shippers, communities, or other interested persons may seek to preserve rail service by filing with the Board: an offer of financial assistance (OFA) to subsidize or purchase a rail line for which a railroad is seeking abandonment (49 U.S.C. 10904), including a request for the Board to set terms and conditions of the financial assistance; a request for a public use condition (section 10905); or a trail-use request (16 U.S.C. 1247(d)). Similarly, when a line is placed on a system diagram map identifying it as an anticipated or potential candidate for abandonment, affected shippers, communities, or other interested persons may seek to preserve rail service by filing with the Board a feeder line application to purchase the identified rail line (section 10907). Additionally, the railroad owning the rail line subject to abandonment must, in some circumstances, provide information to the applicant or offeror. The Board previously published a notice about this collection in the **Federal Register** on February 10, 2012, at 77 FR 7236–37 (60-day notice). That notice allowed for a 60-day public review and comment period. No comments were received. The information collection for which approval is sought is described in detail below. Comments may now be submitted to OMB concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) 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, when appropriate; and (4) whether this collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility.

Description of Collection

Title: Statutory Authority to Preserve Rail Service.

OMB Control Number: 2140–00##.

STB Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Respondents: Affected shippers, communities, or other interested persons seeking to preserve rail service over rail lines that are proposed or identified for abandonment, and railroads that are required to provide information to the offeror or applicant.

Number of Respondents: 40 (including informational filings required of railroads).[1]

Frequency. On occasion.

TABLE—NUMBER OF YEARLY RESPONSES

Type of filing	Number of filings
Offer of Financial Assistance	3
OFA—Railroad Reply to Request for Information	3
OFA—Request to Set Terms and Conditions	1
Request for Public Use Condition	9
Feeder Line Application	1
Trail-Use Request	20
Trail-Use Request Extension[2]	19

[2] In the 60-day notice, the Board did not separate trail use requests into initial trail-use requests and extension requests, but it has done so in this notice because the initial request has a capped filing fee and the extension request does not. The distinction is necessary to more accurately derive the cost to the government of this collection and the total non-hour burden cost, which increases from $41,980 (in the 60-day notice) to $45,780.

Total Burden Hours (annually including all respondents): 374 hours (sum total of estimated hours per response X number of responses for each type of filing).

TABLE—ESTIMATED HOURS PER RESPONSE

Type of filing	Number of hours per response
Offer of Financial Assistance	32
OFA—Railroad Reply to Request for Information	10
OFA—Request to Set Terms and Conditions	4
Request for Public Use Condition	2
Feeder Line Application	70
Trail-Use Request	4
Trail-Use Request Extension	4

Total "Non-hour Burden" Cost (such as filing fees): $45,780 (sum of estimated "non-hour burden" cost per response X number of responses for each statutory section and type of filing).

[1] In Fiscal Year (FY) 2011, there were 56 filings under 49 U.S.C. 10904–07 and the Trails Act. See *Table—Number of Yearly Responses.* In the 60-day notice, the Board indicated that there were approximately 60 respondents. Although no comments were filed, it has come to our attention that approximately 30% of the filings were additional filings submitted by railroads or trail users that had already submitted filings during the time period. Therefore, the number of respondents has been revised to approximately 40, which is 30% less than the number of filings.

TABLE—ESTIMATED "NON-HOUR BURDEN" COST PER RESPONSE

Type of filing	Filing costs	Other costs	Total costs
Offer of Financial Assistance	$1,500	$90	$1,590
OFA—Railroad Reply to Request for Information	0	30	30
OFA—Request to Set Terms and Conditions	23,100	30	23,130
Request for Public Use Condition	0	30	30
Feeder Line Application	2,600	200	2,800
Trail-Use Request	250	30	280
Trail-Use Request Extension	450	30	480

Needs and Uses: Under the Interstate Commerce Act, as amended by the ICC Termination Act of 1995, Public Law No. 104–88, 109 Stat. 803 (1995), and Section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), persons seeking to preserve rail service may file pleadings before the Board to acquire or subsidize a rail line for continued service, or to impose a trail use or public use condition. Under 49 U.S.C. 10904, the filing of an OFA starts a process of negotiations to define the financial assistance needed to purchase or subsidize the rail line sought for abandonment. Once the OFA is filed, the offeror may request additional information from the railroad, which the railroad must provide. If the parties cannot agree to the sale or subsidy, either party also may file a request for the Board to set the terms and conditions of the financial assistance. Under section 10905, a public use request allows the Board to impose a 180-day public use condition on the abandonment of a rail line, permitting the parties to negotiate a public use for the rail line. Under section 10907, a feeder line application provides the basis for authorizing an involuntary sale of a rail line. Finally, under 16 U.S.C. 1247(d), a trail-use request, if agreed upon by the abandoning carrier, requires the Board to condition the abandonment by issuing a Notice of Interim Trail Use (NITU) or Certificate of Interim Trail Use (CITU), permitting the parties to negotiate an interim trail use/rail banking agreement for the rail line.

The collection by the Board of these offers, requests, and applications, and the railroad's replies (when required), enables the Board to meet its statutory duty to regulate the referenced rail transactions.

Retention Period: Information in these collections is maintained by the Board for 10 years, after which it is transferred to the National Archives as permanent records.

DATES: Comments on this information collection should be submitted by September 10, 2012.

ADDRESSES: Written comments should be identified as "Paperwork Reduction Act Comments, Surface Transportation Board, Statutory Authority to Preserve Rail Service." These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Patrick Fuchs, Surface Transportation Board Desk Officer, by fax at (202) 395–5167; by mail at OMB, Room 10235, 725 17th Street NW., Washington, DC 20500; or by email at *OIRA_SUBMISSION@OMB.EOP.GOV.*

FOR FURTHER INFORMATION, CONTACT: Marilyn Levitt, (202) 245–0269. [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.] Relevant STB regulations are referenced below and may be viewed on the STB's Web site under E–Library > Reference: STB Rules, *http://www.stb.dot.gov/stb/elibrary/ref_stbrules.html.*

SUPPLEMENTARY INFORMATION: Respondents seeking authority from the Board to preserve rail lines must submit certain information required under the Board's related regulations and, in some circumstances, railroads seeking to abandon a line must disclose certain information to the offeror or applicant.

Offer of Financial Assistance. When a rail line would otherwise be approved for abandonment (or discontinuance), any financially responsible person may seek to acquire the line for continued rail service (after abandonment has been approved), or may seek to temporarily subsidize continued operations by the incumbent railroad (after abandonment or discontinuance has been approved), by filing an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27. An OFA may be submitted to the Board as soon as the railroad seeks abandonment (or discontinuance) authority. Once an OFA is submitted, the abandoning railroad must, upon request, promptly provide to any party considering an OFA and to the Board an estimate of the annual subsidy or minimum purchase price; a report on the physical condition of line; and data on traffic, revenues, net liquidation value, and the cost to rehabilitate to class I (minimum) track standards. If the parties are not able to agree upon the purchase price or subsidy, then, to move forward, either party may ask the Board to set the price or subsidy, which will be binding upon the parties if the offeror chooses to accept the terms set by the Board and proceed with the purchase.

Public Use Request. Any person may request that the Board prohibit an abandoning railroad from disposing of the right-of-way—for up to 180 days—without first offering the right-of-way (on reasonable terms) for other suitable public purposes (such as mass transit, pipeline, transmission lines, recreation, etc.). Such requests are governed by 49 U.S.C. 10905 and 49 CFR 1152.28.

Feeder Line Application. When a line has been identified on a railroad's system diagram map as a potential candidate for abandonment (or discontinuance), but before abandonment (or discontinuance) authority has been sought, any financially responsible person (other than a Class I or II railroad) may, by filing a feeder line application under 49 U.S.C. 10907 and 49 CFR part 1151, seek to acquire the line for continued rail service under the forced sale provisions of the feeder railroad development program.

Trail-Use Request. The Trails Act provides a mechanism whereby any interested person may seek to "railbank" a rail right-of-way that has been approved for abandonment and use the property in the interim as a recreational trail. The Board has a ministerial role in this process; under 49 CFR 1152.29, interested persons may submit a request to the Board for a trail use condition, and if the statutory conditions are met, the Board must authorize the parties to negotiate a trail-use agreement by issuing a CITU, or, in an exemption proceeding, a NITU. The CITU or NITU typically permit negotiations for 180 days, but the negotiations can be extended upon request to the Board. Under the Trails Act, trail-use agreements are consensual, not forced. The abandoning railroad is free to choose whether or not to enter into or continue negotiations to

transfer (all or part of) the right-of-way to a trail sponsor.

Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under section 3506(b) of the PRA, Federal agencies are required to provide, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period, through publication in the **Federal Register**, concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: August 6, 2012.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–19555 Filed 8–8–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Office of Investment Security, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of Investment Security within the Department of the Treasury is soliciting comments concerning the information collection provisions of the Regulations Pertaining to Mergers, Acquisitions and Takeovers by Foreign Persons, 31 CFR 800.402.

DATES: Written comments should be received on or before October 9, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Aimen Mir, Director, Office of Investment Security, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 5221, Washington, DC 20220—(202) 622–1860.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Amad Judeh, Office of Investment Security, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220—(202) 622–1715; or Francine McNulty Barber, Senior Counsel, Department of the Treasury, Room 2014, 1500 Pennsylvania Ave. NW., Washington, DC 20220—(202) 622–1947.

SUPPLEMENTARY INFORMATION: *Title:* Regulations Pertaining to Mergers, Acquisitions and Takeovers by Foreign Persons.

OMB Number: 1505–0121.

Abstract: The information request in this proposed collection is contained in 31 CFR 800.402. The information collected under these regulations is used by the Committee on Foreign Investment in the United States (CFIUS), an inter-agency committee chaired by the Secretary of the Treasury and comprised of the Secretaries of State, Defense, Treasury, Commerce, Homeland Security, Energy, and Labor; the Attorney General; the U.S. Trade Representative; and the Directors of National Intelligence and the Office of Science and Technology Policy. CFIUS, on behalf of the President, is authorized under section 721 of the Defense Production Act of 1950 to conduct reviews to determine the effects on the national security of transactions proposed or pending after the date of enactment (August 23, 1988) by or with foreign persons that could result in foreign control of any person engaged in interstate commerce in the United States (''covered transactions'').

Current Actions: Extension.

Type of Review: Extension.

Affected Public: Foreign businesses and foreign individuals.

Estimated Number of Responses: 105.

Estimated Time per Respondent: This varies, depending on individual circumstances, with an average of 100 hours.

Estimated Total Annual Burden Hours: 10,500 hours.

Requests For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 6, 2012.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–19560 Filed 8–8–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before October 9, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, or copies of the information collection and instructions, or copies of any comments received, contact Joel Goldberger at (202) 927–9368 or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and the Internal Revenue Service, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other

Federal agencies to take this opportunity to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We Invite Comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collections Open for Comment

Currently, the IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

Title: REG 143544–04—Regulations Enabling Elections for Certain Transactions under Section 336(e).

OMB Number: 1545–2125.

Abstract: This document contains final regulations that provide guidance under section 336(e) of the Internal Revenue Code (Code) which authorizes the issuance of regulations under which a corporation (seller) that owns stock in another corporation (target) meeting the requirements of section 1504(a)(2), and that sells, exchanges, or distributes all of such stock, may make an election to treat the sale, exchange, or distribution of target stock as a sale of all of target's underlying assets. Section 336(e) was enacted as part of the legislation repealing the *General Utilities* rule and, like an election under section 338(h)(10), is meant to provide taxpayers relief from a potential multiple taxation at the corporate level of the same economic gain which can result when a transfer of appreciated corporate stock is taxed to a corporation without providing a corresponding step-up in the basis of the assets of the corporation.

Current Actions: Final Regulations.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals and households, business or other for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 1,000 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless the collection of information displays a valid OMB control number.

Approved: August 3, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–19469 Filed 8–8–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, September 4, 2012.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227 or 206–220–6098.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee will be held Tuesday, September 04, 2012, at 9:30 a.m. Pacific Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notifications of intent to participate must be made with Ms. Janice Spinks. For more information please contact Ms. Spinks at 1–888–912–1227 or 206–220–6098, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: August 1, 2012.

Louis Morizio,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–19468 Filed 8–8–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0092]

Agency Information Collection (Rehabilitation Needs Inventory) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 10, 2012.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0092'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7479, FAX (202) 632–7583 or email *denise.mclamb@va.gov*. Please refer to ''OMB Control No. 2900–0092.''

SUPPLEMENTARY INFORMATION:

Title: Rehabilitation Needs Inventory (RNI), VA Form 28–1902w.

OMB Control Number: 2900–0092.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 28–1902w is mailed to service-connected disabled veterans who submitted an application for vocational rehabilitation benefits. VA will use data collected to determine the types of rehabilitation program the veteran will need.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 29, 2012, at page 31690.

Affected Public: Individuals or households.

Estimated Annual Burden: 45,000 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 60,000.

Dated: August 6, 2012.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2012–19490 Filed 8–8–12; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Disability Compensation will meet on August 21–22, 2012, at the St. Regis Hotel, 923 16th and K Streets NW., Washington, DC. The sessions will begin at 8:30 a.m. and end at 4 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The Committee will receive briefings on issues related to compensation for Veterans with service-connected disabilities and other VA benefits programs. Time will be allocated for receiving public comments in the afternoon. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come, first-served basis. Individuals who speak are invited to submit 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record.

The public may submit written statements for the Committee's review to Sarah Fusina, Esq., Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration, Compensation Service, Regulation Staff (211D), 810 Vermont Avenue NW., Washington, DC 20420 or email at *Sarah.Fusina@va.gov*. Any member of the public wishing to attend the meeting or seeking additional information should contact Mrs. Fusina at (202) 461–9569.

Dated: August 3, 2012.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012–19488 Filed 8–8–12; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Housing and Urban Development

Public Housing Assessment System (PHAS): Physical Condition Scoring Notice and Revised Dictionary of Deficiency Definitions; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5526–N–02]

Public Housing Assessment System (PHAS): Physical Condition Scoring Notice and Revised Dictionary of Deficiency Definitions

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final Notice.

SUMMARY: This notice provides additional information to public housing agencies (PHAs) and members of the public about HUD's process for issuing scores under the Physical Condition Indicator of the PHAS under the PHAS Physical Condition Scoring Process notice published on February 23, 2011. In addition, this notice makes changes to the Dictionary of Deficiency Definitions (Dictionary). This notice follows a notice for comment that was published on October 13, 2011, and makes additional changes to the Dictionary as a result of public comments. Because some of these changes to the Dictionary affect the Item Weights and Criticality Levels for the inspectable items for which changes have been made, this notice republishes the entire Item Weights and Criticality Levels table as well as the entire Dictionary as Appendices.

The process for issuing scores and the changes in this notice apply to the physical condition inspection process for both multifamily and public housing properties.

DATES: Effective Dates: For public housing properties, this notice is effective September 10, 2012, and will be applicable to PHAs with fiscal years ending on December 31, 2012, and thereafter. For multifamily housing properties assisted with project-based Section 8 that is attached to the structure, section 202 and section 811 capital advances and loans for supportive housing for the elderly and persons with disabilities, and for multifamily housing properties with mortgages insured or held by HUD or that are receiving insurance from HUD, as listed at 24 CFR 200.853(b), this notice is effective for all inspections conducted on January 1, 2013 and thereafter.

FOR FURTHER INFORMATION CONTACT: Claudia J. Yarus, Department of Housing and Urban Development, Office of Public and Indian Housing, Real Estate Assessment Center (REAC), 550 12th Street SW., Suite 100, Washington, DC 20410 at 202–475–8830 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. The October 13, 2011 Notice for Comment

On October 13, 2011 (76 FR 63640), HUD published for public comment a notice revising the scoring protocol for the PHAS physical condition indicator and making changes to the Dictionary of Deficiency Definitions. The major revision was the addition of a point loss cap, which limits the amount by which a single deficiency in an inspectable area could reduce the overall property score, in response to complaints by PHAs that there were situations where the reduction from a single deficiency was so severe as to be unfair. Inspectable areas include site, building exterior, building system, common areas, and dwelling units. Under the point loss cap proposed for comment, the maximum point deduction for single deficiencies for the site is 7.5 points; for the building exterior, building system, and common areas, 10 points each; and for dwelling units, 5 points. Conforming changes proposed to implement the point loss cap are described in the October 13, 2011, notice; see 76 FR 63641.

In addition to the point loss cap, changes were proposed to the inspection software and to the Dictionary of Deficiency definitions. The core functionality of the inspection software has been modified to improve data collection. It employs a decision tree model that replaces the selection-based model of recording observed deficiencies. The inspection protocol remains unchanged, but the overall system will include the changes made to the Dictionary of Deficiency Definitions and the inclusion of a point loss cap determined at the inspectable area level.

In the notice for comment, the Dictionary of Deficiencies was proposed to be changed to introduce clarifications. Technical modifications and clarifications were made to a number of deficiencies under inspectable items, including building exterior, building systems, common areas, units, site, and health and safety. The specific changes proposed are found at 76 FR 63648–63654 (October 13, 2011).

II. This Final Notice

This final PHAS Indicator #1 (physical condition) scoring notice, except for the technical and conforming changes to the Dictionary stated in the responses to public comments, is the same as the proposed notice published for comment on October 13, 2011 (76 FR 63640), including the point loss cap.

Changes are made to the Dictionary. The proposed change to building exterior/windows, missing/deteriorated caulk, seals, glazing compound requires conforming changes to two other deficiencies regarding windows. In the deficiency for units, kitchen, range Hood/Exhaust Fans, Excessive Grease/Inoperable, which applies to both common areas and units, this final notice, pursuant to public comment, removes the note referencing this deficiency as a health and safety hazard. In response to a comment raising a possible inconsistency in terminology, the ''site, fencing, and gates'' deficiency and the ''common area, pools, and related structures'' deficiency are now both referenced as ''pools and related structures (common areas).'' The deficiencies for fences in this final notice are for ''non-security/non-safety fences'' and ''security/safety fences.'' In the deficiency for site, grounds, ponding and site drainage, the severity level 2 and 3 definitions are revised to state (for level 2) ''at least 100 square feet'' and (for level three) ''over 100 square feet.'' In the deficiency for site, parking lots/driveways/roads, damaged paving, pursuant to a public comment, this final notice adds a note clarifying that repaired or sealed cracks are not considered a deficiency. Likewise, this final notice adds a similar note to the definition for damaged walls in common areas and in units.

In the definition related to common areas, ceiling, mold, this final notice revises the definition to read ''You see mold or mildew that may have been caused by saturation or surface failure, or evidence of water infiltration or other moisture producing conditions,'' and the title of the definition is revised to conform. Similar deficiency definitions for common areas walls and floors and unit ceiling, walls, and floors are revised to conform.

The deficiency definitions regarding soft and hard floor coverings in dwelling units are revised in this final notice to conform to the proposed definitions for floor coverings in common areas. Also, pursuant to a public comment, in the deficiency for common areas, floors, rot/deteriorated subfloor, the comment on level 3 is revised to be consistent with other similar notes instructing the inspector to notify the PHA of possible failure of the item and recommend an engineering inspection.

Because the conforming amendments occur throughout the Dictionary, the

entire Dictionary is republished as Appendix 2 to this notice. Appendix 1 is the revised Item Weights and Criticality Levels table with the changes that correspond to the changes in the Definitions.

III. The Public Comments

The public comment period for the October 13, 2011 notice closed on November 14, 2011. By the close of the public comment period, HUD received comments from 8 commenters. Commenters included public housing agencies (PHAs) and trade associations involved in public housing and real estate. Two of the commenters, in addition to their comments on this notice, re-submitted comments that were originally submitted in 2004 in response to an earlier proposed revision of the Dictionary of Deficiency Definitions (see 69 FR 12475 *et seq.,* March 16, 2004). These comments are indicated by ''(2004)'' after the comment.

A summary of the significant issues raised in the public comments, and HUD's responses, follows.

A. Physical Inspections

Issue: Physical inspections generally. A commenter stated that the physical condition scoring process is complicated and expensive to implement and does not adequately measure the condition of public housing properties or the management of the PHA. This commenter stated that the process is too complicated with overly rigid rules, and HUD should focus on adjustments that streamline and simplify the system based on a risk management approach.

HUD Response: HUD disagrees that the process is too complicated and rigid. The Uniform Physical Condition Standards (UPCS) inspection protocol was designed to be a uniform inspection process and standard for HUD's portfolio of assisted and insured housing through equitable, fair and accurate assessments. Both the applicable multifamily and public housing regulations employ a risk based approach with respect to the frequency of inspections based on the results the UPCS inspection. UPCS was designed to assess the condition of the housing (i.e., decent, safe and sanitary and in good repair). Efficacy of management operations is assessed and measured under separately protocols under a separate PHAS indicator and under the Office of Housing (HUD form 9834 Management Review).

Another commenter stated that HUD should ensure that the changes are consistent with the Administration's efforts to streamline rental housing programs through reducing physical inspections. According to the commenter, in July 2011, the White House released an alignment report that provided a number of suggestions from industry stakeholders for reducing the number of annual inspections of multifamily properties receiving multiple federal subsidies. The commenter stated that many of these housing programs have a variety of physical inspection requirements, resulting in multiple inspections of a single property annually. According to the commenter, the report suggested expanding use of REAC use of all Uniform Physical Condition Standards (UPCS) for all inspections on federally-assisted properties or adjusting REAC's input methods to allow for non-REAC inspections to be 'read' into the system in order to create a system for standardized comparison. On November 7, the White House announced it was moving forward with a pilot program to reduce physical inspections for federally-assisted, privately-owned multifamily properties in the states of Wisconsin, Michigan, Washington, Minnesota, Oregon and Ohio. A commenter asked HUD to collaborate with the Departments of Agriculture (USDA) and Treasury to ensure consistency among the physical inspection methodologies and protocols for mixed-financed properties in the pilot program and any subsequent national program.

HUD Response: HUD agrees with the focus on streamlining the physical inspection protocol for all federally assisted housing programs. HUD is working to pursue the alignment of the physical inspection process across agencies as part of the Interagency Rental Policy Working Group which is the main source of information going to and from the White House. This group, represented by numerous Federal Agencies including the Departments of Agriculture (USDA) and Treasury, seeks alignment of administrative requirements of federal housing programs to reduce administrative burden and to avoid unnecessary governmental cost. HUD can confirm that inspections have begun in some of the states above with the inspections of the other states being scheduled. To ensure consistency in the inspection process, HUD has suggested to the working group that the UPCS inspection protocol should be used for all inspections on federally-assisted properties in its current format, or at least, investigate minor adjustments to the UPCS software while seeking methods to allow for non-REAC inspections to be reported and recorded into REAC's database. HUD is committed to continue this alignment effort after the final results, analysis and report is sent to the White House.

Issue: Inconsistent inspections. A commenter submitted an example where a PHA spent $20 million on a comprehensive modernization, yet ''the property received an almost failing score due to the incompetency of the inspector.'' This commenter stated that results are influenced unreasonably because of intimidation of HUD Quality Assurance inspectors during random inspections.

HUD Response: Each inspection is based on the observations at the time it is conducted and thus it is always a possibility that improvements may not be in place or items not functioning at that time. Because inspectors are to record all observed deficiencies, whether or not a HUD Quality Assurance (QA) inspector is on site during an inspection, in accordance with the UPCS inspection protocol, the inspector must call out and record all deficiencies observed in the five inspectable areas. If a multifamily owner/PHA feels that a deficiency the inspector called out and cited does not exist, the multifamily owner/PHA should document and submit a request for a technical review as provided in 24 CFR 902.68 for public housing and 24 CFR 200.857(d) for multifamily housing, or request for a database adjustment as provided in 24 CFR 902.24 for public housing and 24 CFR 200.857(e) for multifamily housing.

With respect to the QA inspectors, they are on site to ensure that the inspection is complete and valid and that the contract inspector conducts the inspection in accordance with the UPCS protocol. Should a property feel that a QA inspector exhibited undue pressure during the course of an inspection, HUD advises the multifamily owner/PHA to contact the Physical Inspection QA Manager.

Issue: A commenter stated that a major concern is lack of consistency and fairness by the contracted inspectors, where some inspectors seem to be knowledgeable and interested in performing a true assessment of the physical condition of the PHA, while others have poor attitudes, lack professionalism, and questionable abilities to perform the inspections. This commenter also stated that inspectors do not appear to have a consistent set of guidelines and are often ''guided by personal and subjective'' preferences. This commenter claims that each time a PHAS inspection is carried out the

inspector concentrates on ''a new deficiency of the day.'' The inspection process must be fair and consistent, as the physical inspection has the largest influence on the overall PHAS score.

HUD Response: Over the past 12 years, HUD has invested significant resources to assure consistent application of established standards, including a team of HUD ''quality assurance'' inspectors. While always striving to continue to improve the accuracy of its inspections, HUD believes that the inspection process provides a reasonable indication of the physical condition at the time of inspection of each project. Of course, conditions can vary from year to year.

As such, HUD trains all UPCS inspectors. Only those individuals who meet specific knowledge and experience requirements to be UPCS inspectors participate in the UPCS training. The UPCS training which currently consists of classroom and written testing followed by field testing of actual inspections is being updated in 2012 to include a preliminary on line component. In 2012 HUD also will utilize the Internet to deliver training and provide update to inspectors using webcasts, Skype and Live Meeting. Through these training methods, participants will be able to ask questions that can be addressed immediately.

The Data Collection Device (DCD) 4.0 inspection software being released with this Notice is yet another way for HUD to achieve even greater consistency between inspectors and inspections. The 4.0 software enhances objectivity because it is uses a ''decision tree'' model. Based on answers to questions, the software guides the inspector in recording the level of the observed deficiency.

HUD asks multifamily owners/PHAs that have concerns about an inspector's ability to contact the REAC Technical Assistance Center at 1–888–245–4860.

Issue: A commenter stated that the reduced inspection frequency for high-scoring properties creates a perverse incentive for inspectors to note additional deficiencies and elevate severity levels to maintain demand for their services. This commenter stated that it ''has received several reports of irregularities in the baseline inspection process'' supporting this concern, and suggests changes in inspector oversight and the inspection protocol.

HUD Response: HUD disagrees that the frequency of inspections influences the number and severity level of deficiencies that inspectors cite. HUD review of thousands of physical inspection reports does not find this issue to be present. The size of the assisted and insured property portfolio subject to UPCS inspection is large enough that there is no incentive for inspectors to cite deficiencies to ensure their continued service. Nonetheless, if a multifamily owner/PHA has a specific basis for concern about an inspector or inspection they have the option to contact the REAC Technical Assistance Center (TAC) at 1–888–245–4860. All such calls are referred to the Inspector Administration Division that investigates the reported concern.

Issue: Improper focus. A commenter stated that the UPCS inspection criteria do not line up well with the priorities of residents. The criteria force PHAs to spend significant time and resources to correct deficiencies found in inspections, at the expense of other enhancements that would improve quality of life for residents. By demanding a focus on individual deficiencies, UPCS scoring creates a barrier to allowing PHAs to pursue a more holistic approach. For example, by emphasizing fogged window panes, bent fences, and other items that do not present a health and safety risk, UPCS scores divert attention from larger-scale improvements like unit reconfigurations, replacement of obsolete but functional fixtures, and other efforts that improve overall livability.

HUD Response: HUD disagrees that the scoring is a barrier to multifamily owners/PHAs pursuing a holistic approach to property management. The UPCS is comprehensive in scope, assessing the overall physical condition of the entire property. HUD defers to multifamily owners/PHAs on the amenities and resident priorities they wish to provide and pursue. Maintaining decent safe and sanitary housing that is in good repair is not inconsistent with developing and implementing modernization projects and capital improvement plans that contribute to livability.

Issue: Suggestions for improving inspections. A commenter stated that inspectors should be required to provide documentation and evidence of all deficiencies recorded against a property, which will encourage adherence to the Dictionary of Definitions by inspectors, provide the PHA with information to address the deficiency, and provide a factual basis for appeals. This commenter also stated that there should be automatic quality control reinspection when a score decreases by 20 points or more from one inspection to the next, in addition to the reinspection when the score increases, so as to be neutral with reinspections. To minimize administrative burden, the PHA could have the option to decline the reinspection for a large score decrease if it believes it is accurate.

HUD Response: Since HUD began conducting UPCS inspections in 1998, properties have received an exigent health and safety report at the conclusion of each day of the inspection and an overall physical inspection report that identifies all deficiencies observed after the inspection is scored. As part of the new 4.0 software, that physical inspection report will include a location for each deficiency cited. All of this information, along with any information noted by the property representative that accompanies the inspector throughout the inspection, provides the property with the information necessary to submit an appeal.

HUD disagrees that there should be an automatic quality assurance re-inspection when the score changes by 20 or more points from the previous inspection. The determination as to when HUD will conduct a quality assurance re-inspection after an inspection has been conducted is based on the overall review of the inspection report, which review includes consideration of the change in the score (either a decrease or increase) from the previous inspection. In all instances HUD considers input from the multifamily owner/PHA when making the determination to do a quality assurance review, but the final determination still rests with HUD.

Issue: A commenter stated that HUD should address the disproportionate effect on scoring when there are few buildings or units.

HUD Response: The point loss cap as described in the proposed notice that will be implemented in the 4.0 software mitigates the disproportionate impact or effect on scoring for the five inspectable areas for properties with one or few buildings.

Issue: Tenant-caused issues and matters outside PHA's control. Several commenters stated that points should not be deducted for tenant-caused deficiencies or other matters stated to be outside the control of the PHA.

A commenter stated that tenant-caused deficiencies should not cause a reduction in the score where the tenants have disobeyed rules or instructions from the PHA. Another commenter stated that a greater emphasis is placed on the site in areas that have little to no impact on the integrity of the units, and the residents' quality of living becomes increasingly compromised. As funding is reduced, PHAs will have to choose whether to expend those funds to

ensure that residents have safe, secure, and decent affordable housing, or using the funds to retain high performer status.

A commenter stated that points should not be deducted where the tenant commits a lease violation that the PHA could not reasonably have prevented, or where the tenant fails to report an issue with the unit. This commenter stated that the most frequent of these are: tenant refuses to admit an inspector; tenant created safety violations that are not visible outside the unit, such as trip hazards, tampering with the call-for-aid feature, or furniture too close to the heating source; unreported damage since the last PHA inspection, such as physical damage to walls and cabinets, misplacing or damaging the basin plug, cracked or removed plate covers, and damaged plumbing. At a minimum, appropriate time should be given to remedy these issues and points ''recaptured'' accordingly.

A commenter stated that PHAs should not be held accountable for tenant-created deficiencies that cannot be controlled by management, such as blocking egress by placement of furniture or adding additional locks after the PHA's inspection but before the REAC inspection.

A commenter stated that PHAs should not incur point deductions for matters outside the control of the PHA, including tenant-caused damage, unreported damage, and deficiencies on public property not controlled by the PHA. This commenter cites the lack of ability to appeal to HUD for these kinds of deficiencies. As an example, the commenter stated that in the case of tenant-paid utilities, PHAs lose points when the utilities have been shut off and the PHA cannot show it has taken any action with the tenant to remedy the situation. Where the shut-off occurred shortly before the REAC inspection, the PHA has had no time to take action, yet it loses points with no appeal option.

HUD Response: The multifamily owner/PHA is ultimately responsible for the physical condition of a unit, and should enforce the appropriate provisions of the lease or other directives if a resident does not comply with them. This includes a resident's failure to maintain the equipment (that is leased with the unit) in acceptable condition, causing damage to the unit, altering the unit or creating safety hazards. Further, if a resident causes damage and fails to report it, the citation of the deficiency will alert the multifamily owner/PHA to the existence of the problem.

With respect to the matter of appeals, through the technical review/database adjustment process, HUD makes adjustments for deficiencies on public property that is not controlled by the PHA. Database adjustments may be made prior to or after the inspection and once HUD approves a database adjustment, it is recorded in HUD's records. For all approved database adjustments, HUD automatically adjusts the inspection by restoring points after each subsequent inspection so that when the inspection report is issued, the multifamily owner/PHA does not have to file another request.

HUD does not consider appeals for tenant caused damage because under statute (See, e.g., 42 U.S.C. 1437d(f)(1)) and contract (e.g., the ACC) such damage is the responsibility of the multifamily owner/PHA. Accordingly, HUD reminds multifamily owners/PHAs to schedule regular housekeeping and preventative maintenance inspections and ensure that a provision addressing tenant caused damage issues is included in the lease.

As stated, the citation in the inspection serves to alert the PHA or owner to the existence of unreported damage.

Issue: Deferred maintenance plans and seasonal issues. A commenter stated that PHAs should not be penalized for deficiencies that are scheduled for future maintenance or that are part of a deferred maintenance plan due to weather or seasonal issues, as weather is beyond the control of a PHA. For instance, pooling of water on a site may not be fixable during winter when the ground is frozen.

HUD Response: HUD understands budgetary constraints which are often the cause for deferring maintenance items. However, part of good management is maintaining a preventative maintenance schedule by priority while considering the season(s) that the work can take place. Since the physical inspection of a unit is a snapshot in time, if maintenance work is planned but not yet begun at the time of the inspection, the physical condition is recorded in the inspection report.

Issue: A commenter stated that HUD should allow a specified time to correct physical deficiencies found during the inspection before points are deducted. This commenter stated that Section 8 and multifamily housing programs under HQS allow 30 days to correct deficiencies, and 24 hours for life-threatening issues.

HUD Response: The application of a time delay in scoring in order to afford the owner an opportunity to correct or mitigate observed deficiencies is inconsistent with UPCS. Inspections under UPCS, which was established in 1998 as a uniform inspection standard that is applicable to all project based housing assistance programs, are a snapshot of the time at which the inspection was conducted. Under the applicable regulations, if the multifamily owner/PHA believes the inspector was in error or if there is an objectively verifiable material error, after receipt of the inspection report the multifamily owner/PHA may file a technical review or request for a database adjustment, as applicable, which may result in an improvement in the property's overall score.

B. Point Loss Caps

Issue: Point loss caps generally. Several commenters supported the general concept of point loss caps, but stated that the point loss caps were still too high, such that minor issues could still lead to disproportionate point reductions. One commenter specifically mentioned the inspectable areas of site and building exterior. One commenter stated that especially EHS issues would be overrepresented in the score despite the point loss caps. This commenter stated that this is particularly true for scattered site developments, and for such developments, the various sites should be treated like buildings and units and averaged for the number of sites. One commenter stated that, while the point loss cap provides some relief to smaller PHAs, it ''will not provide much, if any, relief to housing authorities and properties containing larger numbers of units.''

HUD Response: HUD disagrees that the point loss caps are too high. The point loss caps are based on statistical analyses of thousands of inspections and HUD believes they are reasonable in mitigating the disproportionate impact of deficiencies on property scores. The point loss cap is a buildings-driven concept—a concept based on the number of buildings in a property, not the number of units in the property. Therefore, there will be relief in the inspection scores for all properties that are comprised of one or just a few buildings.

Issue: Specific suggestions and concerns about point deductions. One commenter stated that point deductions should be proportional to how many of the items at issue there are on the property. This commenter cites an example of a small PHA that lost 15.2 points out of a possible 20.2 for site due to various deficiencies including health and safety violations for a missing water valve cover and a loose screw on a piece of playground equipment. The valve

cover should have been considered in proportion to how many such covers there were on the site. The health and safety deductions are the most ''devastating'' ones and are out of proportion. The scoring system is arbitrary and difficult to work with, and does not focus sufficiently on the units, which is where the residents actually live.

HUD Response: Proportionality is one of the equity principles built into the scoring of all deficiencies. The proportionality applied to a single observed deficiency is dependent upon the inspectable area in which the inspectable item is located and the deficiency definition that corresponds to that specific deficiency. In addition to the application of the equity principle of proportionality, certain categories of deficiencies result in larger point deductions due to the potential impact on residents, guests, and property staff. Those categories of deficiencies are the Level 3 deficiencies and all health and safety deficiencies. Any health and safety deficiency on the site affects all property residents, guests, and staff and therefore results in a larger point loss than, for example, a health and safety deficiency in one unit. In the situation described by the commenter, the health and safety deficiency of a missing cover on site poses a personal injury risk and creates opportunities for damage to a building system. The health and safety deficiency of a missing cover on the site affects all property residents, guests, and staff by, for example, posing a personal injury risk and creating opportunities for damage to the building system or posing a personal injury risk, and therefore results in a larger point loss than, for example, a health and safety deficiency in one unit.

Regarding the issue of focus on the living units, as the scoring notice states, of the five inspectable areas that comprise a UPSC property inspection, the dwelling unit inspectable area is accorded the greatest weight and carries the highest weight of 35 percent of the total property score of 100.

C. Appeals and Adjustments

Issue: Appeals process. Several commenters stated that changes should be made to the appeals process. A commenter stated that the requirements for technical reviews are excessive and often require a great deal of time and expense to get an error corrected. Technical reviews also exclude many of the most common reasons a technical review would be needed, such as incorrect severity levels and deficiencies caused by residents that the agency could not have reasonably prevented or corrected. HUD should engage a third party to review appeals, allow for a more cost-effective documentation standard, and, at a minimum, allow agencies to appeal any deficiency that would have sufficient impact to make a difference in their overall PHAS score. While this may increase HUD costs, the significance of physical inspection scores on housing authority funding and status warrants a fair and meaningful process.

A commenter stated that in cases where PHAs wish to appeal, the appeals should be heard by a neutral third party, which is what PHAs are required to do as to residents. The commenter also stated that appeals should be allowed even when they would not change the overall designation of the agency. REAC scores are relied on by lenders, commissioners, and the general public as measurements of the overall condition and performance of PHAs, so PHAs should be afforded the opportunity to appeal mistakes affecting those scores, regardless of whether it would change the PHA's overall designation. Also, a change in score that affects the frequency of inspection, even if it does not affect the overall designation, is material and should be able to be appealed.

HUD Response: HUD does not agree that the document requirements for submitting technical reviews are excessive. The majority of items for which technical reviews are submitted require only a date/time-stamped photograph taken during the inspection that clearly reflects the condition of the inspectable area/item cited as a deficiency. The other items for which a signed and dated letter from a local fire marshal or building code official is required are often one-time letters that verify state and local aspects such as fire safety codes or ownership of fences and sidewalks. To assist multifamily owners/PHAs in preparing requests for technical reviews, HUD has posted a standard submission form along with information and examples of required documents on the Web site.

Additionally, the technical review provisions in the applicable regulations (24 CFR part 200 for multifamily owners and 24 CFR part 902 for PHAs) were not part of the public comment solicitation and are outside the scope of this notice. Accordingly, HUD is not making any changes to these provisions.

Section 6(j)(2)(A)(iii) of the U.S. Housing Act of 1937, 42 U.S.C. 1437d(j)(2)(A)(iii), provides only for the appeal of designation (including mod-troubled), the petition to remove a troubled designation, and the appeal of a denial of such petition. Therefore these are the appeals provided in the PHAS rule. This notice does not make any changes to provide for appeals that would not result in a change of designation, nor is it within the scope of this notice to do so.

HUD has several years experience with appeals, and has found that the mechanisms for technical reviews, database adjustments and appeals provide sufficient recourse to a PHA where there are issues of record or fact in dispute so that there is not a need for a neutral third party hearing.

Issue: Score adjustments. A commenter stated that score adjustments should be allowed when the PHA can show that it had already contracted with a third party or scheduled force account labor to do the necessary repairs. In today's budget environment, PHAs do not have the capacity to fix everything immediately.

HUD Response: HUD recognizes the importance of prioritizing housing repairs and encourages the owner to do so in compliance with regulatory and statutory requirements. However, HUD does not consider a contract not yet in force with work started or scheduled force account labor as part of the score as it would not be a credible inspection of the property at the time of the inspection. Because the physical inspection of a unit is a snapshot in time, if maintenance work is in progress during the inspection of a unit, the physical condition of the unit is recorded in the inspection report.

Issue: Underfunding. A commenter stated generally that given the backlog of unmet capital needs, along with dramatic reductions in the Capital Fund, it is unfair to hold PHAs accountable for the effects of these constraints, and scoring should take these factors into account. Another commenter stated that with no control over funding levels for operating and capital, but fully accountable for the condition of their properties, PHAs are concerned about how to maintain their properties given anticipated cuts to funding levels. Funding levels should be taken into account in measuring the performance of PHAs.

HUD Response: HUD declines to prorate these measures. Funding for all multifamily owners/PHAs is subject to the availability of appropriations and those that make the most effective and efficient use of their available resources will, and should, score the most points on their physical inspections.

Issue: Suggestions for taking funding into account. A commenter suggested the following formula: REAC Score/ Average funding reduction over last 5 years = adjusted REAC score, be used to

determine the physical assessment score.

HUD Response: The UPCS inspection protocol as designed assesses the physical condition of HUD assisted and insured housing according to a uniform standard. As an engineering protocol based on observations at the time of the inspection, it is delinked from funding considerations. This is to ensure that each inspection is objective and verifiable without consideration of external factors.

D. New Software

Issue: Software generally. A commenter stated that providing inspectors with the database adjustments prior to the inspection will streamline the inspection process for all parties, saving inspectors time by eliminating those items from the list of inspectable items, reducing the burden on HUD to correct the findings before scores are issued, and allowing PHAs to maintain their focus on addressing valid findings.

HUD Response: HUD agrees that pre-database adjustments are appropriate and stores approved pre-DBAs in the REAC system for local code variances and other approved items not owned by the property such as fences or roads. Due to the fact that the field office is required to verify a request for a database adjustment based on the supporting documentation, the inspector cannot make an adjustment while on-site. While inspectors must record the deficiencies in accordance with the inspection protocol, the inspection is adjusted automatically after submission to the REAC system and prior to final scoring. Guidelines and a standardized submission form to establish approved pre-DBAs are posted on the HUD Web site.

Issue: A commenter stated that HUD should provide more information about the new software before implementing it, and should field test the software thoroughly before rolling it out along with the new definitions nationally. The test should include different inspectors using the software on the same properties to identify inconsistency and ensure objectivity before implementing the final version.

HUD Response: HUD agrees with the necessity for field testing the new software. HUD has already completed a number of field tests addressing various scenarios and the QA inspectors are conducting in house testing with mock inspections. HUD is in the process of developing web based demonstrations for the various modules of the new software that will be available on line in the near future. In addition, HUD QA inspectors are working with the REAC physical inspection staff in planning a live demonstration that will be announced as a webcast, Skype or Live Meeting that will include real time questions and answers.

E. Public Process

Issue: Public comment process. A commenter urged HUD to engage the industry in meaningful, informed, and specific dialogue before adding elements to the final notice which were not previously available for comment and discussion.

HUD Response: This final notice is within the scope of the proposed notice, on which the public has had appropriate opportunity to comment.

F. Deficiency Definitions

Issue: Definitions generally: A commenter stated that the updates are ''very minor and will not make much difference.''

HUD Response: HUD disagrees. The changes in the deficiency definitions in this notice were designed to create greater consistency among inspectors. These definitional changes coupled with the point loss cap scoring enhancement will result in more accurate and equitable assessments of the physical condition of HUD properties.

Issue: Duplication. A commenter stated that HUD should limit duplicate citations for a single item. For example, a contiguous area of mold present on a wall and adjacent ceiling is counted as 2 deficiencies when ''logic suggests that it should only be noted once.'' This commenter also stated that it is ''double jeopardy'' to (in this example) also deduct for poor air quality resulting from the mold. In that case, only the most severe of the deficiencies related to the same item should be noted.

HUD Response: There is no duplication in the example cited. Walls and ceiling are separate and distinct inspectable items within a given inspectable area such as the unit. And, while they have some similar applicable deficiencies, they also have different applicable deficiencies. As such in accordance with the UPCS inspection protocol, inspectors will record the observed deficiency, as applicable, for each inspection item. Recording only one deficiency would not be accurate and complete. Even a small amount of mold or mildew can be potentially dangerous, especially if it is allowed to increase in size. The presence of mold or mildew should be identified, and the cause should be determined and corrected. Because mold/mildew has been recognized as a serious health and safety issue, it is also recorded as poor air quality.

Issue: Proportionality. A commenter stated that HUD should reconsider the proportionality of the weights for deficiencies, especially regarding sites, to reflect a more realistic approach to addressing deficiencies considering the overall context and size of properties. For example, a small deficiency, such as ponding or a hole in a fence, will be weighted in the same way over a small site versus a large site regardless of acreage, square footage, or number of units, leading to disproportionate results. Because deficiencies are not weighted in proportion to the size of the site, scores can be unreasonably decreased and impact a PHA's ability to qualify for additional funding.

HUD Response: Under UPCS there is a single site for all of a development's properties regardless of the size of the property or if the property is comprised of scattered sites. The underlying basis is that UPCS treats all deficiencies on site as affecting all residents, guests, and staff on that site. HUD appreciates the commenter's suggestion about weighting deficiencies in proportion to the size of the property and will give this suggestion further consideration.

Issue: Subjectivity of inspectors. A commenter stated that, due to potential subjectivity of interpretation among inspectors, HUD should re-evaluate the impact of the new deficiency definitions either through extensive field-testing or an initial evaluation period to determine if they are objective enough to ensure inspections are conducted in a standard manner.

HUD Response: The revised definitions will be implemented as part of the new DCD 4.0 software which uses a ''decision tree'' structure that HUD believes will reduce the possibility of wide variations due to subjectivity. Regarding testing, HUD has already completed a number of field tests and the QA inspectors are conducting in house testing.

Issue: No points should be deducted for cosmetic issues. A commenter stated that PHAs should be scored on true measures of livability rather than cosmetic issues such as paint and tile, and no points should be deducted for cosmetic issues. Given tight budgets with capital needs outstripping resources, a PHA could be penalized for choosing to spend their capital funds on major systems, leaving insufficient funding to address cosmetic issues. Conversely, a PHA could receive a high score by focusing on surface issues while issues below the surface, such as rot and mold, can have a severe impact. This commenter stated that a review of

the most frequently cited deficiencies on HUD's Web site shows that at least a quarter are purely cosmetic, while many others are ''likely cosmetic in nature.''

HUD Response: Under UPCS, which assesses the overall physical condition of the entire property, the scoring impact of each deficiency will vary based on the item weight and criticality and severity levels of the deficiency. The protocol establishes the relative importance of one deficiency to another. What the commenter refers to as cosmetic are lower impact deficiencies and that is reflected in the points that are deducted.

HUD posted the list of the most frequently cited deficiencies for general informational purposes because they span the various criticality and severity levels of the possible deficiencies in the UPCS protocol. However, a multifamily owner/PHA's best portfolio management tool is the actual inspection reports and the deficiencies cited therein.

Issue: Specific deficiencies. Commenters raised issues with a number of the specific deficiency definitions, and also reiterated their comments on the 2004 proposed changes to the deficiency definitions (69 FR 12474 *et seq.,* March 16, 2004). Where a comment refers to the 2004 proposed changes, the comment is identified as such and a citation is provided to the changes to which the commenter refers.

Building Exterior

Issue: Building exterior, windows, missing/deteriorated caulk, seals, glazing compound. A commenter stated that this deficiency (69 FR 12479) should be advisory only, not scored (2004).

HUD Response: The proposed change is to the severity level of the deficiency. What was the Level 2 deficiency for building exterior, windows, missing/deteriorated caulk, seals, glazing compound window is now the Level 1 deficiency. The scoring of this deficiency was not part of the public comment solicitation. HUD has retained the scoring of this deficiency due to the potential deteriorating situation it addresses. The definition as proposed remains unchanged. There are two other deficiency areas regarding windows that are revised to conform to the proposed definition for Building Exterior—Windows—Missing/Deteriorated Caulking/Seals/Glazing compound. Both areas pertain to this deficiency, one for common areas windows and the other for dwelling unit windows. Because these definitions are similar in the current Dictionary, the deficiency definitions for missing/deteriorated caulking/seals/glazing compound for common area windows and dwelling unit windows are revised in this final notice to reflect the same revisions contained in the proposed missing/deteriorated caulking/seals/glazing compound in the building exterior deficiency definition.

Issue: Building exterior, peeling/needs paint. A commenter stated that no points should be deducted for cosmetic paint issues, for this and similar deficiencies.

HUD Response: The scoring of this deficiency was not part of the public comment solicitation and this final notice makes no change to this item.

Building Systems

Issue: Building systems, exhaust system, roof fans inoperable. A commenter stated that this definition should be clarified so that a deficiency would be cited only when the equipment that is part of the exhaust system does not function as intended.

HUD Response: The definition encompasses both the functional and non functional features because a non functional deficiency can, over time, if not addressed, lead to a more serious deficiency that can contribute to wear and tear and affect the efficiency and operation of the system. Citing all deficiencies allows multifamily owners/PHAs to take timely correction action. The definition remains unchanged.

Issue: Building systems, HVAC. A commenter stated that this definition could be read to give physical condition inspectors leeway to cite any associated part of the HVAC system, regardless of whether it applies to the functionality of the HVAC, as a ''building system'' deficiency. This could result in a large physical condition score point loss for something that may be a minor deficiency or repair. This commenter stated that HUD should clarify that the deficiency would only apply to parts of the HVAC that impact its functionality.

HUD Response: HUD disagrees because the associated parts that are addressed in the definitions are specific to deficiencies. All deficiencies associated with the HVAC do not, necessarily, cause the HVAC not to function. For example, in the Boiler/Pump/Cooling System Leaks (HVAC—Building Systems) deficiency, coolant, water or steam escaping from the unit casing and/or pump packing/system piping is clearly a deficiency and in fact may be a Health and Safety deficiency and yet the HVAC may continue to function.

Units

Issue: Units, HVAC Systems, General Rust/Corrosion. A commenter stated that it disagrees with the proposed definition of this deficiency (69 FR 12500) as ''deterioration is defined as rust and/or formations of metal oxides, flaking or discoloration, or a pit or crevice.'' This proposed change does not address how the HVAC system is functioning; it only addresses the presence of rust and corrosion. If the equipment is working properly, there should be no deficiency. This criterion is too subjective and gives the inspector too much latitude (2004). This commenter also stated that the definition of ''rust or corrosion'' including ''pit or crevice'' does not give any parameters for the size of the pit or crevice or extent of rust or corrosion required, and so gives too much latitude to the inspector (2004).

Another commenter stated that no points should be deducted when rust does not indicate a structural problem and does not impact the functionality. Consideration should be given to where the rust is located on the HVAC system.

Another commenter stated that only ''significant'' deterioration should be covered; minor instances that have no effect on the functioning of the system should not be scored. This commenter stated that this should be a no-score item according to discussions held in 2002. (2004)

Another commenter stated that the defined deteriorations—rust and/or formations of metal oxides, flaking, or discoloration, or a pit or crevice—may simply be cosmetic blemishes and not indicative of the functionality of and/or the need to repair the unit. This commenter stated that HUD should specify that cosmetic blemishes which do not affect the operation of the unit may not be cited as deficiencies.

HUD Response: Because there is no way to tell if the presence of rust and/or corrosion is affecting the functionality of a system, it is considered a deficiency but it is only recorded as a

Level 1 deficiency. The presence of rust and/or corrosion makes the multifamily owner/PHA aware of the potentially deteriorating situation. Rust is corrosive and if left untreated can comprise the integrity of the building envelop. The functionality of the HVAC system is addressed elsewhere in the Dictionary.

The objective measure for rust and/or corrosion is that they are easily observable. The definition for this deficiency has remained as proposed. The scoring of this deficiency was not

part of the public comment solicitation. This final notice retains the scoring of this deficiency due to the potential deteriorating situation it addresses.

Issue: Units, kitchen, Range Hood/ Exhaust Fans, Excessive Grease/ Inoperable (applies to both common areas and units). A commenter stated that the proposed definition, which includes ''grease or other barrier noticeably reduces,'' is too subjective (2004). This deficiency would permit an inspector to score a resident's housekeeping skills, over which a PHA has no control, as a physical deficiency, thereby lowering the score. Further, reference to health and safety is excessive and would penalize the PHA for the resident's housekeeping skills.

HUD Response: HUD agrees that this definition should not refer to a health and safety hazard and this notice removes the reference. The multifamily owner/PHA is ultimately responsible for the physical condition of a unit, and should enforce the appropriate provisions of the lease if a resident does not maintain the equipment (that is leased with the unit) in acceptable condition.

Issue: Units, call-for-aid inoperable. A commenter stated that resident interference with the equipment should be taken into account when finding a deficiency.

HUD Response: HUD does not agree that interference with the call-for-aid equipment should be taken into account by the inspector. The call-for-aid as installed must serve its intended function (e.g., a bell sounds an alarm, a light is turned on, or off-site personnel notified when the system is activated). The multifamily owner/PHA responsibility for the physical condition of a unit and lease enforcement includes a resident's interference with the call-for-aid. The citation of the deficiency alerts the multifamily owner/PHA to the existence of the problem with this critical system.

Issue: A commenter stated that this definition (call-for-aid inoperable) should only require that the system function as intended. This commenter stated that deficiencies have been found because the cord was tied up and did not reach the floor, and this it is inappropriate for HUD to penalize the property for the resident's decision to tie up the cord, as long as the item is working.

HUD Response: HUD does not agree that this definition should only require that the system function as intended. A coiled or tied call-for-aid cord is not automatically a deficiency—the system components must also be tested. But because the pull cord is an integral component of the call-for-aid system it must be tested in a way that reflects how someone laying on the floor in distress might pull the cord. If the coiled or tied cord causes the system to fail when the cord is pulled, a deficiency is cited. But, if the components of the system function when the cord is pulled, the call-for-aid system functions as intended and there is no deficiency.

Site

Issue: Site, Fencing and Gates—Holes/Missing Sections/Damaged/ Falling/Leaning. A commenter disagrees with the proposed Level 2 Comments in this section that adds reference to health and safety hazards to this deficiency (2004). This proposal does not provide adequate parameters as to what ''poses a danger'', thereby leaving the designation of a health and safety hazard too subjective. This commenter stated that the reference to health and safety hazards should be eliminated.

HUD Response: HUD has determined to retain the phrase ''poses a danger'' even though it may be considered subjective. It is impractical to include in the definition everything that could pose a threat. The reference to health and safety will be retained because an injury or bodily harm is a health and safety issue. HUD will enhance its inspector training protocol to emphasize the following definition of security fencing: ''Fencing that provides a closed boundary by connections at all points, including gates.'' This will ensure the inspector clearly understand the difference between perimeter/border fencing and security fencing. In reviewing the proposed definition, HUD observed that the reference in the notes should be consistent and therefore this notice revises the reference to ''Pools and Related Structures (Common Areas).'' HUD has also determined that the final definition will be for ''non-security/non-safety fences and ''security/safety fences.''

Issue: Site, Fencing and Gates. A commenter stated that this deficiency should cover only ''significant'' rust or deterioration, and only those instances of deterioration that actually impact the functionality of the fixture should be scored.

HUD Response: The three levels of this deficiency address what is necessary for a deficiency to be present and are proportional. The presence of rust and/or corrosion makes the multifamily owner/PHA aware of a potentially deteriorating situation. There is no way to tell if the presence of rust and/or corrosion does or will affect the functionality of this inspectable item, but there are three levels of deficiency in this definition. If addressed at the earliest stages, timely corrective action could prevent a more serious problem from developing over time.

Issue: A commenter stated that no points should be deducted for damage to fences that do not affect the safety and security of the property.

HUD Response: The scoring of this deficiency was not part of the public comment solicitation. No change is made in this final notice.

Issue: A commenter stated that reference to swimming pool enclosures is inconsistent between this item and one on the following page, referring to 69 FR 12505 and 12506 (March 16, 2004), and asked: ''Is it Site, Fencing, and Gates, or is it Common Areas, Pools, and Related Structures'' (2004)?

HUD Response: HUD agrees that the references in the notes should be consistent and this final notice changes the reference to ''Pools and Related Structures (Common Areas).'' HUD also revises this notice so that the final definitions are for ''non-security/non-safety fences'' and ''security/safety fences.''

Issue: Site, grounds, ponding and site drainage. A commenter stated that the level 2 and 3 descriptions (69 FR 12508) ''would be improved by adding 'at least 100 square feet'" (2004).

HUD Response: HUD agrees and the Level 2 and 3 definitions are revised to state ''at least 100 square feet'' and ''over 100 square feet'' respectively. Also the language throughout the Dictionary is conformed to read ''more than'' where appropriate.

Issue: Site, parking lots/driveways/ roads, damaged paving. A commenter stated that the deficiency description (69 FR 12509) should read ''also, repaired/sealed cracks should NOT be considered a deficiency.'' (2004)

HUD Response: HUD agrees with the commenter and this final notice adds the note, ''Repaired/sealed cracks should not be considered a deficiency.'' HUD will enhance its inspector training protocol to include the recognition of repaired/sealed cracks and damage with picture examples.

Issue: Site, walkways, steps, cracks, settlement, heaving. A commenter stated that the notes for deficiency (69 FR 12516) should state that ''repaired/ sealed cracks should NOT be considered a deficiency.'' (2004)

HUD Response: HUD agrees and this final notice adds this sentence as item 4 under the note.

Issue: Site, retaining wall, damaged, falling leaning. Commenter stated that this deficiency (69 FR 12515) refers to

a deteriorating or damaged retaining wall as defined, ''but we do not see a definition of a damaged retaining wall.'' (2004) What is the threshold for damage to a retaining wall? HUD has been taking these issues case-by-case under technical review, or relying on the inspector's judgment, but this issue requires further study.

HUD Response: It is not practical to include every possible type of damage to a retaining wall that may occur. Therefore, HUD does review this deficiency on a case-by-case basis through the technical review process to ensure that multifamily owners/PHAs are not unduly penalized. HUD also considers this an important training issue and emphasizes it by using a multitude of examples, and using color pictures whenever possible, as part of the training. This final notice removes the phrase ''as defined'' from the definitions.

Common Areas

Issue: Common areas, ceiling—holes/missing tiles, etc. A commenter stated that in the 2004 notice (69 FR 12485)), the Level 1 definition was proposed to be revised to include a crack more than ⅛ inch wide and 11 inches long. This commenter stated that the Level 1 definition should remain as before the 2004 proposed revision, and the material that was added to Level 1 should be placed in the Level 2 definition.

HUD Response: HUD believes that including cracks in the Level 1 definition is less stringent than including cracks in the Level 2 definition, and has retained the proposed definition.

Issue: Common areas, ceiling, mold. A commenter stated that no points should be deducted for superficial stains that do not pose an imminent threat to health and safety. Another commenter in 2004 stated that in discussions held in 2002 on this deficiency (69 FR 12486), ''we arrived'' at a size area for mold of 1–4 square feet. This has been reduced to 4 square inches—1 square foot in the Level 1 definition, and in the Level 3 definition, to 1 square foot. This definition should be returned to the ''agreed measures.''

HUD Response: It is impractical to include in the definition how to identity all possible conditions that may have lead to a stain, but the presence of mold/mildew would clearly indicate it is more than superficial. Thus, this final notice revises the wording of this definition to clarify that the primary focus is the presence of mold/mildew, as well as evidence of water infiltration or other moisture producing conditions. The definition reads, ''You see mold or mildew that may have been caused by saturation or surface failure, or evidence of water infiltration or other moisture producing conditions.'' This notice revises the title of this definition to conform to the revised definition to read, ''Mold/Mildew/Water Stains/Water Damage (Ceiling—Common Areas).''

HUD believes the use of ''4 square inches to one square foot'' and ''more than 1 square foot'' included in the proposed definition, rather than the suggested ''1–4 square feet'' and ''4 square feet,'' is more realistic given the potential seriousness of the presence of mold/mildew. One square foot (144 square inches) is an area that is 36 times larger than the proposed 4 square inches, and 4 square feet is 4 times larger than 1 square foot. Because of the importance of the presence of mold/mildew, HUD has determined to use the smaller areas as the minimum.

Even a small amount of mold/mildew can be potentially dangerous, especially if it is allowed to increase in size. The presence of mold/mildew should be identified, and the cause should be determined and corrected. The definition for this deficiency has remained as proposed.

There are two other deficiency definitions regarding mold/mildew in common areas that this notice revises to conform to the proposed definition for ''Ceiling—Water Stains/Water Damage/Mold/Mildew (Common Areas).'' One pertains to mold/mildew on walls in common areas, and the other is mold/mildew on floors in common areas. Because of the similarities in the definitions for mold/mildew, this notice makes a holistic change to mold/mildew in all locations where it can be recorded (not just the definition for ceiling), though differences in the actual definitions may be warranted. Therefore, the deficiency definitions for common areas walls and floors have been revised to reflect similar revisions as those contained in the proposed ''Ceiling—Water Stains/Water Damage/Mold/Mildew (Common Areas)'' deficiency definition. In addition, there are three deficiency definitions regarding mold/mildew in dwelling units that have been revised to conform to the proposed definition for ''Ceiling—Water Stains/Water Damage/Mold/Mildew (Common Areas).'' They are dwelling unit ceiling, walls, and floors. The current deficiency definitions for the dwelling unit ceiling, walls and floors are similar to the current deficiency definition for ''Ceiling—Water Stains/Water Damage/Mold/Mildew (Common Areas).'' Therefore, the deficiency definitions for dwelling unit ceiling, walls and floors have been revised to reflect similar revisions as those contained in the proposed ceiling common areas deficiency definition, though differences in the actual definitions may be warranted.

Issue: Common areas, routes obstructed or inaccessible to wheelchair. A commenter stated that if the common area and route existed prior to these requirements, no points should be deducted.

HUD Response: The definition does not impose new requirements. The change simply adds the words ''at least one route'' to the current definition clarifies that the inspector need only verify one route, not all of them. The definition remains as proposed in the October 13, 2011 notice.

Issue: Common areas, hard floor covering, missing flooring/tiles. A commenter stated that the thresholds for this definition (69 FR 12487) should be returned to those agreed to at the 2002 meetings, that is, level one is 10–20 percent, and level 2 is 20–50 percent (2004).

HUD Response: HUD has determined to retain the threshold language in the proposed definition and use a consistent application of percentages for all square foot items, when appropriate. For example, the same percentages are used for the soft floor covering deficiency definition. HUD notes that the comment for Level 3 is redundant and this final notice deletes the comment.

There is one additional deficiency definition regarding hard floor covering in dwelling units that is revised in this final notice to conform to the proposed definition for hard floor covering in common areas. The deficiency definition for hard floor covering in dwelling units is revised in this final notice to reflect the same revisions contained in the proposed hard floor covering in common areas deficiency definition.

Issue: Common areas, soft floor covering damaged, floors. A commenter stated that the title of the definition should be changed to include ''carpet,'' since that is all that is covered, and the deficiency should read: ''you see damaged or missing carpet.'' This deficiency should not be considered a health and safety issue (2004).

HUD Response: The commenter is incorrect that carpet is the only soft floor covering (e.g., interlocking foam tiles). HUD has determined to retain the deficiency title to read ''Soft Floor Covering Missing/Damaged (Floors—Common Areas)'' and the deficiency to read ''You see damaged and/or missing soft floor covering.'' The changes to the

two floor covering deficiency definition titles move from a paradigm that solely describes the type of deficiency in the title (missing or damaged flooring) to one that includes the type of floor covering generally (soft or hard) in the title and describes the levels of deficiencies for that type of flooring. The general description of the type of floor covering in the title ensures that the definition is applicable to all types of soft and hard floor coverings respectively.

The titles to the two floor covering deficiency definition now include the type of floor covering generally (soft or hard) in addition to the describing the type of deficiency in the title (missing or damaged flooring) without giving an example of the type to ensure the definition is covers all types of soft and hard floor coverings respectively.

Soft floor covering that is missing, has holes, tears or loose areas could be a tripping hazard, and therefore, is a health and safety issue.

There is one additional deficiency definition regarding soft floor covering in dwelling units that this notice revises to conform to the proposed definition for soft floor covering in common areas. The deficiency definition for soft floor covering in dwelling units has been revised to reflect the same revisions contained in the proposed soft floor covering in the common areas deficiency definition.

Issue: Common areas, floors, rot/deteriorated subfloor. A commenter stated that the comment on level 3 should be consistent with other similar notes instructing the inspector to notify the PHA of possible failure of the item and recommend an engineering inspection (2004).

HUD Response: HUD agrees, and this notice revises the language in the Level 3 comment to the suggested language. This change is consistent with language in other deficiency definitions.

Issue: Another commenter stated that it is extremely concerned that HUD's note to ''apply weight'' to a suspect floor could result in injury to the inspector or additional damage to the property. This commenter stated that HUD should remove the ''apply weight'' note from this definition.

HUD Response: By applying a moderate amount of weight to the floor, a noticeable deflection will be felt if there is rot, decay, deterioration, and/or damage. This is the most common way to determine if there is a problem and it is used throughout the inspection industry. HUD will enhance its inspector training protocol to ensure that this definition is adequately explained and examples provided.

Issue: Common areas, HVAC Noisy, Vibrating, Leaking. A commenter stated that this definition includes examples of ''unusual vibrations, leaks, or abnormal noise'' such as ''screeching, squealing, banging, shaking, etc.'' This commenter stated that these examples add more subjectivity than clarification to the definition. As a result, properties may receive a citation for a non-existent deficiency. This commenter stated that the current definition should be retained.

HUD Response: HUD disagrees. HUD has included these illustrative examples to provide information to assist the inspector in identifying the types of noises that may emanate from an HVAC unit. This definition only applies if there is a noise, otherwise it is marked no observed deficiency and will not result in a point deduction. The definition for this deficiency remained as proposed.

Issue: Common areas, walls, damaged. A commenter stated that the note under this deficiency description should state that repaired or sealed cracks should not be recorded as a deficiency (2004). Another commenter stated that no points should be deducted for cracks that are not a structural deficiency

HUD Response: This deficiency does not address any threat to the integrity of the structure. Cracks that have been repaired or sealed properly are no longer a deficiency, and will not be cited as a deficiency. This final notice adds a note to this definition: ''Cracks that have been repaired or sealed properly should not be considered a deficiency.'' The definition for this deficiency has remained as proposed. This final notice revises one additional deficiency definition regarding damaged walls in dwelling units to conform to the proposed definition for damaged walls in common areas. The deficiency definition for damaged walls in dwelling units is revised to reflect the same revisions contained in the proposed damaged walls in common areas deficiency definition.

Issue: Common areas, graffiti. A commenter stated that the deficiency description should note that ''one location'' means ''adjacent walls, doors, ceiling, and/or floors'' (2004).

HUD Response: HUD believes the proposed deficiency definition is more descriptive of the intent of the use of the word ''location'' defined in the definition as, ''* * * one general area in a building such as one hallway in a 10 story building or one floor of a stair-well in a 5 story building.'' The definition for this deficiency has remained as proposed.

Health and Safety

Issue: Health and safety, air quality, mold and mildew. Commenters stated that this item is a housekeeping issue and not a maintenance issue, and that mold on a wall and adjacent ceiling should be considered 1 item, where it is currently considered 2 items.

A commenter also stated that in discussions held in 2002, it was agreed that mold would have to cover 1–4 square feet for a point deduction, which has been reduced to 4 inches–1 foot, and that this should be returned to the agreed measure (2004); another commenter stated that the minimum should be 1 square foot before a defect is found.

Another commenter stated that the definition is too broad and could include situations where the residents cause moisture damage by disabling the room fan, lifestyle, or other causes outside the PHA's control.

HUD Response: It is almost impossible to determine if the presence of mold/mildew is caused by resident lifestyle and failure to ventilate properly. The multifamily owner/PHA is ultimately responsible for the physical condition of a unit, and should enforce the appropriate provisions of the lease if a resident does not maintain the equipment (that is leased with the unit) in acceptable condition.

Walls and ceiling are separate inspectable items with similar and different applicable deficiencies. As such in accordance with the UPCS inspection protocol, inspectors will record the observed deficiency, as applicable, for each inspection item. Even a small amount of mold/mildew can be potentially dangerous, especially if it is allowed to increase in size. The presence of mold/mildew should be identified, and the cause should be determined and corrected. Because mold/mildew has been recognized as a serious health and safety issue, it is also recorded as poor air quality.

As stated in HUD's response to comment on ceiling mold in common areas, HUD has determined the measurements as proposed are more realistic given the potential seriousness of mold/mildew. As such, the definition for this deficiency is made final as proposed.

In determining if other moisture producing conditions are present, the inspector will use common sense. It is impractical to address how to identity all possible other moisture producing conditions, but the presence of mold/mildew would clearly indicate that something other than water, if there is

no evidence of water infiltration, is causing the growth of mold/mildew.

Issue: Health and safety, air quality, sewer odor detected. A commenter stated that it prefers the prior definition that required the inspector to make a judgment whether the odor presented a health risk. Another commenter stated that the proposed definition does not differentiate between an issue being completely ignored and one that has just occurred. A time frame for addressing the problem is also absent. Also, a commenter stated that this definition is too vague. A property owner often has no control over situations when sewer odors are detected—i.e., flooding, pipes bursting, etc.—especially when these incidents are not on the property. This commenter stated that HUD should clarify what a ''health risk'' from sewer odors entails rather than have a blanket deficiency on any odors detected.

HUD Response: HUD has determined that the inspector should cite any strong odor that can be detected during the physical inspection, hence the proposed definition removed the reference to health risk. As with other definitions, there is no distinction between what may be being ignored or what has just occurred because the odor itself is what necessitates action by the multifamily owner/PHA. The multifamily owner/PHA cannot know that the odor detected by the inspector and cited in the inspection is not a sewer odor unless it is investigated. If after investigation the multifamily owner/PHA determines that the odor does not emanate from the property, the multifamily owner/PHA can, in accordance with the applicable regulations, submit a request for a technical review or database adjustment to HUD. But as with all other deficiencies, if the cause of the odor is due to a condition on the property, the multifamily owner/PHA must take action to remedy the condition. The definition for this deficiency has remained as proposed.

Neither the physical inspection scoring notice nor the Dictionary of Deficiency Definitions addresses time frames for correcting, remedying or mitigating deficiencies. Multifamily owners/PHAs should refer to their applicable program regulations and other guidance.

Issue: Health and safety, flammable materials, improperly stored. A commenter stated that ''not all paint is flammable (i.e., latex paint) and therefore should be excluded from the definition. Another commenter stated that a threshold should be included in this definition. For example, paper stored near a gas furnace is an issue, but paper stored elsewhere is not.

HUD Response: The UPCS inspection protocol is based on the inspector's observations. It is neither practical nor prudent for the inspector to determine the content of containers, such as those listed in the proposed definition.

HUD believes examples are not necessary as this is covered in the proposed definition by stating ''near a heat or electric source….'' This is an area that is extensively covered in the inspector training. Just one instance of flammable materials igniting due to improper storage is one instance too many. The presence of improperly stored flammable material should be identified and mitigated. The scoring of this deficiency was not part of the public comment solicitation. The definition for this deficiency is made final as proposed.

IV. The Revised Physical Inspection Scoring Process

1. Definitions

The following are the definitions of the terms used in the physical condition scoring process:

Criticality means one of five levels that reflect the relative importance of the deficiencies for an inspectable item. Appendix 1 lists all deficiencies with their designated criticality levels, which vary from 1 to 5, with 5 being the most critical. Based on the criticality level, each deficiency has an assigned value that is used in scoring. Those values are as follows:

Criticality	Level	Value
Critical	5	5.00
Very Important	4	3.00
Important	3	2.25
Contributes	2	1.25
Slight Contribution	1	0.50

Based on the importance of the deficiency as reflected by its criticality value, points are deducted from the project score. For example, a clogged drain in the kitchen is more critical than a damaged surface on a countertop. Therefore, more points will be deducted for a clogged drain than for a damaged surface.

Deficiencies refer to specific problems that are recorded for inspectable items, such as a hole in a wall or a damaged refrigerator in the kitchen.

Inspectable area means any of the five major components of the project: site, building exteriors, building systems, common areas, and dwelling units.

Inspectable items refer to walls, kitchens, bathrooms, and other features that are inspected in an inspectable area. The number of inspectable items varies for each inspectable area, from 8 to 17. Weights are assigned to each item to reflect their relative importance and are shown in the Item Weights and Criticality Levels tables. The tables refer to the weight of each item as the nominal item weight, which is also known as the amenity weight.

Normalized area weight represents weights used with area scores to calculate project-level scores. The weights are adjusted to reflect the inspectable items actually present at the time of the inspection. These weights are proportional, as follows:

- For dwelling units, the area score is the weighted average of sub-area scores for each unit, weighted by the total of item weights present for inspection in each unit, which is referred to as the amenity weight.
- For common areas, the area score is the weighted average of sub-area common area scores weighted by the total weights for items available for inspection (or amenity weight) in each residential building common area or common building. Common buildings refer to any inspectable building that contains no dwelling units. All common buildings are inspected.
- For building exteriors or building systems, the area scores are weighted averages of sub-area scores.
- For sites, the area score is calculated as follows: (1) The amenity weights found on a site, (2) minus deductions for deficiencies, and (3) normalized to a 100-point scale.

Normalized sub-area weight means the weight used with sub-area scores to compute an inspectable area score. These weights are proportional:

- For dwelling units, the item weight of amenities available in the unit at the time of inspection is the amenity weight.
- For common areas, the common area amenity weight is divided by a building's probability of being selected for inspection. All residential buildings with common areas may not be selected for inspection; however, all buildings with common areas are used to determine the amenity weight.
- For building exterior and building systems, the building exterior or building system amenity weight is multiplied by the building's size (number of units) and then divided by its probability of being selected for inspection.
- For the site, there is no sub-area score. For each project, there is a single site.

Note that dividing by a building's probability of being selected for inspection is the same as multiplying by

the probability weight since the probability weight is 1 divided by the probability of being selected for inspection.

Point loss cap is the maximum number of points that a single deficiency can count against the overall property score. The point loss cap for each inspectable area is:

Inspectable area	Maximum point deduction for a single deficiency
Site	7.5
Building Exterior	10.0
Building Systems	10.0
Common Areas	10.0
Dwelling Units	5.0

Project is used synonymously with the term ''property.''

Severity means one of three levels that reflect the extent of damage associated with each deficiency, with values assigned as follows:

Severity level	Value
3	1.00
2	0.50
1	0.25

The Item Weights and Criticality Levels tables show the severity levels that are possible for each deficiency. Based on the severity of each deficiency, the score is reduced. Points deducted are calculated by multiplying the item weight by the values for criticality and severity, as described below. For specific definitions of each severity level, see the Dictionary of Deficiency Definitions.

Score means a number between 0 and 100 that reflects the physical condition of a project, inspectable area, or sub-area. A property score includes both an alphabetical and a numerical component. The number represents an overall score for the basic physical condition of a property, including points deducted for health and safety deficiencies other than those associated with smoke detectors. The letter code specifically indicates whether health and safety deficiencies were detected, as shown in the chart below:

Physical inspection score alphanumeric codes	No health and safety deficiencies	Health and safety deficiencies			
		Non-life threatening (NLT)	Life threatening (LT)/exigent health and safety (EHS)	Fire safety	
				No smoke detector problems	Smoke detector problems
a	X			X	
a*	X				X
b		X		X	
b*		X			X
c			X	X	
c*			X		X

To record a health or safety problem, a letter is added to the project score (a, b, or c) and to note that one or more smoke detectors is inoperable or missing an asterisk (*) is added to the project score. The project score for properties with LT deficiencies will have a ''c'' whether or not there also are NLT deficiencies.

Sub-area means an area that will be inspected for all inspectable areas except the site. For example, the building exterior for building ''2'' is a sub-area of the building exterior area. Likewise, unit ''5'' would be a sub-area of the dwelling units area. Each inspectable area for each building in a property is treated as a sub-area.

2. Scoring Protocol

To generate accurate scores, the inspection protocol includes a determination of the appropriate relative weights of the various components of the inspection; that is, which components are the most important, the next most important, and so on. For example, in the building exterior area, a blocked or damaged fire escape is more important than a cracked window, which is more important than a broken light fixture. The Item Weights and Criticality Levels tables provide the nominal weight of observable deficiencies by inspectable item for each area/sub-area. The Dictionary of Deficiency Definitions provides a definition for the severity of each deficiency in each area/sub-area.

3. Equity Principles

In addition to determining the appropriate relative weights, consideration is also given to several issues concerning equity between properties so that scores fairly assess all types of properties:

Proportionality. The scoring methodology includes an important control that does not allow any sub-area scores to be negative. If a sub-area, such as the building exterior for a given building, has so many deficiencies that the sub-area score would be negative, the score is set to zero. This control mechanism ensures that no single building or dwelling unit can affect the overall score more than its proportionate share of the whole.

Configuration of project. The scoring methodology takes into account different numbers of units in buildings. To fairly score projects with different numbers of units in buildings, the area scores are calculated for building exteriors and systems by using weighted averages of the sub-area scores, where the weights are based on the number of units in each building and on the building's probability of being selected for inspection. In addition, the calculation for common areas includes the amenities existing in the residential common areas and common buildings at the time of inspection.

Differences between projects. The scoring methodology also takes into account that projects have different features and amenities. To ensure that the overall score reflects only items that are present to be inspected, weights to calculate area and project scores are adjusted depending on how many items are actually there to be inspected.

Point loss cap. The scoring methodology further takes into account that a single deficiency can have disproportionate effects on scoring when there are relatively few buildings or units that are inspected in a project. To mitigate any disproportionate impact, the number of points deducted from the project score for any one deficiency is capped. Point loss caps are set at the inspectable area level.

4. Deficiency Definitions

During a physical inspection of a project, the inspector looks for

deficiencies for each inspectable item within the inspectable areas, such as the walls (the inspectable item) of a dwelling unit (the inspectable area). Based on the observed condition, the Dictionary of Deficiency Definitions defines up to the three levels of severity for each deficiency: Level 1 (minor), Level 2 (major), and Level 3 (severe). The associated values are shown in the definition of ''severity'' in Section V.1. A specific criticality level, with associated values as shown in that chart, is also assigned to each deficiency. The criticality level reflects the importance of the deficiency relative to all other possible observable deficiencies for the inspectable area.

5. Health and Safety Deficiencies

The UPCS physical inspection emphasizes health and safety (H&S) deficiencies because of their crucial impact on the well-being of residents. A subset of H&S deficiencies is exigent health and safety (EHS) deficiencies. These are life threatening (LT) and require immediate action or remedy. EHS deficiencies can substantially reduce the overall project score. As noted in the definition for the word ''score'' in the Definitions section, all H&S deficiencies are highlighted by the addition of a letter to the numeric score. The Item Weights and Criticality Levels tables list all H&S deficiencies with an LT designation for those that are EHS deficiencies and an NLT designation for those that are non-life threatening. The LT and NLT designations apply only to severity level 3 deficiencies.

To ensure prompt correction, remedy, or action to abate H&S deficiencies, the inspector gives the project representative a deficiency report identifying every observed EHS deficiency before the inspector leaves the site. The project representative acknowledges receipt of the deficiency report by signature. HUD makes available to all PHAs an inspection report that includes information about all of the H&S deficiencies recorded by the inspector. The report shows:

- The number of H&S deficiencies (EHS and NLT) that the inspector observed;
- All observed smoke detector deficiencies; and
- A projection of the total number of H&S problems that the inspector potentially would see in an inspection of all buildings and all units.

If there are smoke detector deficiencies, the physical conditions score will include an asterisk. However, problems with smoke detectors do not currently affect the overall score. When there is an asterisk indicating that the project has at least one smoke detector deficiency, that part of the score may be identified as ''risk;'' for example, ''93a, risk'' for 93a*, and ''71c, risk'' for 71c*. There are six distinct letter grade combinations based on the H&S deficiencies and smoke detector deficiencies observed: a, a*, b, b*, c, and c*. For example:

- A score of 90c* means that the project contains at least one EHS deficiency to be corrected, including at least one smoke detector deficiency, but is otherwise in excellent condition.
- A score of 40b* means the project is in poor condition, has at least one non-life threatening deficiency, and has at least one missing or inoperable smoke detector.
- A score of 55a means that the project is in poor condition, even though there are no H&S deficiencies.
- A project in excellent physical condition with no H&S deficiencies would have a score of 90a to 100a.

6. Scoring Process Elements

The physical condition scoring process is based on three elements within each project: (1) Five inspectable areas (site, exterior, systems, common areas, and dwelling units); (2) inspectable items in each inspectable area; and (3) observed deficiencies.

7. Scoring Using Weighted Averages

The score for a property is the weighted average of the five inspectable area scores, where area weights are adjusted to account for all of the inspectable items that are actually present to be inspected. In turn, area scores are calculated by using weighted averages of sub-area scores (e.g., building area scores for a single building or unit scores for a single unit) for all sub-areas within an area.

For all areas except the site, normalized sub-area weights are determined using the size of sub-areas, the items available for inspection, and the sub-area's probability of selection for inspection. Sub-area scores are determined by deducting points for deficiencies, including H&S deficiencies, based on the importance (weight) of the item, the criticality of the deficiency, and the severity of the deficiency. The maximum deduction for a single deficiency cannot exceed the point cap for the inspectable area where the deficiency is observed and a sub-area score cannot be less than zero. Also, points will be deducted only for one deficiency of the same kind within a sub-area. For example, if multiple deficiencies for broken windows are recorded, only the most severe deficiency observed (or one of the most severe, if there are multiple deficiencies with the same level of severity) will result in a point deduction.

8. Essential Weights and Levels

The process of scoring a project's physical condition depends on the weights, levels, and associated values of the following quantities:

- Weights for the 5 inspectable areas (site, building exteriors, building systems, common areas, and dwelling units).
- Weights for inspectable items within inspectable areas (8 to 17 per area).
- Criticality levels (critical, very important, important, contributes, and slight contribution) plus their associated values for deficiencies within areas inspected.
- Severity levels (3, 2, and 1) and their associated values for deficiencies.
- Health and safety deductions (exigent/fire safety and non-life threatening for all inspectable areas).
- Point loss cap, defined at the inspectable area level.

9. Normalized Area Weights

Area weights are used to obtain a weighted average of area scores. A project's overall physical condition score is a weighted average of all inspectable area scores. The nominal weights are:

Inspectable area	Weight (percent)
Site	15
Building Exterior	15
Building Systems	20
Common Areas	15
Dwelling Units	35

These weights are assigned for all inspections when all inspectable items are present for each area and for each building and unit. All of the inspectable items may not be present in every inspectable area. When items are missing in an area, the area weights are modified to reflect the missing items so that within that area they will add up to 100 percent. Area weights are recalculated when some inspectable items are missing in one or more area(s).

Although rare, it is possible that an inspectable area could have no inspectable items available; for example, there could be no common areas in the inspected residential buildings and no common buildings. In this case, the weight of the ''common areas'' would be zero percent and its original 15 percent weight would be equitably redistributed to the other inspectable areas. The 15 percent is redistributed by totaling the weights of other inspectable areas (15 +

15 + 20 + 35 = 85) and dividing the weights of each by that amount (0.85, which is 85% expressed as a decimal). The modified weights are 17.6 percent, 17.6 percent and 23.5 percent, zero percent, and 41.2 percent for site, building exterior, building systems, common areas, and units, respectively, and they add up to 100 percent.

10. Area and Sub-Area Scores

For inspectable areas with sub-areas (all areas except sites), the inspectable area score is a weighted average of the sub-area scores within that area. The scoring protocol determines the amenity weight for the site and each sub-area as noted in Section VI.1 under the definition for normalized sub-area weight. For example, a property with no fencing or gates in the inspectable area of the site would have an amenity weight of 90 percent or 0.9 (100 percent minus 10 percent for lack of fencing and gates), and a single dwelling unit with all items available for inspection, except a call-for-aid would have an amenity weight of 0.98 or 98 percent (100 percent minus 2 percent for lack of call-for-aid). A call-for-aid is a system designed to provide elderly residents the opportunity to call for help in the event of an emergency.

The amenity weight excludes all health and safety items. Each deficiency as weighted and normalized are subtracted from the sub-area or site-weighted amenity score. Sub-area and site area scores are further reduced for any observed health and safety deficiencies. These deductions are taken at the site, building, or unit level. At this point, a control is applied to prevent a negative site, building, or unit score. The control ensures that no single building or unit can affect an area score more than its weighted share.

11. Overall Project Score

The overall project score is the weighted average of the five inspectable area scores, with the five areas weighted by their normalized weights. Normalized area weights reflect both the initial weights and the relative weights between areas of inspectable items actually present. For reporting purposes, the number of possible points is the normalized area weight adjusted by multiplying by 100 so that the possible points for the five areas add up to 100. In the Physical Inspection Report for each project that is sent to the PHA, the following items are listed:

- Normalized weights as the ''possible points'' by area;
- The area scores, taking into account the points deducted for observed deficiencies;
- The deductions for H&S for each inspectable area; and
- The overall project score.

The Physical Inspection Report allows the PHA and the project manager to see the magnitude of the points lost by inspectable area and the impact on the score of the H&S deficiencies.

12. Examples of Physical Condition Score Calculations

The physical inspection scoring is deficiency based. All projects start with 100 points. Each deficiency observed reduces the score by an amount dependent on the importance and severity of the deficiency, the number of buildings and units inspected, the inspectable items actually present to be inspected, and the relative weights between inspectable items and inspectable areas.

The calculation of a physical condition score is illustrated in the examples provided below. The examples go through a number of interim stages in calculating the score, illustrating how sub-area scores are calculated for a single project, how the sub-area scores are rolled up into area scores, how the point cap is applied, and how area scores are combined to calculate the overall project score. One particular deficiency, missing/damaged/expired fire extinguishers, is carried through the example.

As will be seen, the deduction starts as a percent of the sub-area. Then the area score is decreased considerably in the final overall project score since it is averaged across other sub-areas (building systems in the example) and then averaged across the five inspectable areas. Last, as applicable, the points deducted due to the observance of a particular deficiency are reduced by the application of the point loss cap. Although interim results in the examples are rounded to one decimal, only the final results are rounded for actual calculations.

Following this section, another example is given specifically for public housing projects to show how project scores are rolled up into the PHAS physical indicator score for the PHA as a whole.

Example #1. This example illustrates how the score for a sub-area of building systems is calculated based on the following features.

Consider a project for which the five inspectable areas are present and during the inspection of a residential building with 28 units missing/damaged/expired fire extinguishers are observed. This deficiency has a severity level of 3, which has a severity weight of 1.00 (see Item 1 of this section); a criticality level of 5, which has a criticality weight of 5 (see Item 1 of this section); and an item weight of 15.5. The amount of the points deducted is the item weight (15.5), multiplied by the criticality weight (5), multiplied by the severity weight (1), which equals 77.5.

If this sub-area has all inspectable items, the amenity weight for the sub-area adds to 100%. If missing/damaged/expired fire extinguishers is the only deficiency observed, the initial proportionate score for this sub-area (building systems in building one) is the amenity score minus the deficiency points, normalized to a 100-point basis. In this instance the initial proportionate sub-area score is $100 - 77.5 = 22.5 \times (100 \div 100) = 22.5$. Because the point deduction for the missing/damaged/expired fire extinguishers is 77.5, this deficiency accounts for 77.5% of the sub-area score. Additional deficiencies or H&S deficiencies would be calculated in the same manner and further decrease the sub-area score, and if the result is less than zero (a negative number) the score is set to zero.

Element	Associated value
Amenity score	100.00
Deficiency points	77.5
Calculation for the initial proportionate score.	$100.00 - 77.5 = 22.5$
Normalizing factor	$100 \div 100 = 1$
Normalized initial sub-area score.	$22.5 \times 1 = 22.5$

Example #2. This example illustrates how the building systems inspectable area score is calculated from the sub-area score. Consider a property with two buildings with the following characteristics:

- Building One (from example #1 above):
  - 28 units
  - 100 percent amenity weight for items that are present to be inspected in building systems
  - Building systems sub-area score is 22.5 points
- Building Two:
  - 2 units
  - 62 percent amenity weight for items that are present to be inspected in the building's systems
  - Building systems sub-area score is 100.0 points

The score for the building systems area is the weighted average of the individual scores for each building's systems. Each building systems score is weighted by the number of units and the percent of the weight for items present to be inspected in the building systems inspectable area.

The building systems area score is determined as follows. First, the unit weighted average for each building is computed by multiplying the number of units in the building by the amenity weight for that building. The unit weighted average for each building then is divided by the total of the building weights for all buildings in the property to determine the proportion of building weight for each building. Multiplying the proportion of building weight by the initial sub-area score for the building

produces the building systems area score. The building systems area score for the property is the sum of the building systems area score for each building.

In this example, the buildings systems area score for the property is 25.7.

Building	Number of units	×	Amenity weight	=	Unit weighted average
One	28		1.00		28.0
Two	2		.62		1.24
Total	30				29.24

Unit weighted average	÷	Sum of building weights	=	Proportion of building weight
28.0		29.24		.958
1.24		29.24		.042
29.24				

Proportion of building weight	×	Initial sub-area score	=	Building systems Area score
.958		22.5		21.5
.042		100.0		4.2
				25.7

As shown in the calculations above, the proportion of building weight allocated to building one is 95.8% (28.0 ÷ 29.24 = .958). A building systems area score of 25.7 indicates that the point deduction for the missing/damaged/expired fire extinguishers in building one is 74.2 points: the number of points deducted at the sub-area (from example #1) multiplied by the proportion of building weight allocated to building one, or 77.5 × .958 = 74.2.

Example #3. This example illustrates how the overall weighted average for the building systems area amenity weight is calculated. The unit weighted average of amenity weight for each building is computed by dividing the unit weighted average for the building (as calculated in example #2) by the total number of units in the property. Normalizing the unit weighted average of amenity weights for each building by multiplying by 100 results in the overall building systems weighted average amenity weight. In this example, the overall building systems weighted average amenity weight for the property is 97.4.

Building	Unit weighted average	÷	Total units in property	=	Unit weighted average of amenity weights	×	Normalized to a 100 point basis	=	Overall building systems weighted average amenity weight
One	28.0		30		.933		100		93.3
Two	1.24		30		.041		100		4.1
Total	29.24		.....		.....		.....		97.4

Example #4. This example illustrates how the score for a property is calculated. Consider a property with the following characteristics. All of the values are presumed except for the values buildings systems which were calculated in the preceding examples.

- Site
—Score: 90 points
—67.5 percent weighted average amenity weight
—Nominal area weight: 15 percent
- Building Exteriors
—Score: 85 points
—100 percent weighted average amenity weight
—Nominal area weight: 15 percent
- Building Systems (from Examples 2 and 3)
—Score: 25.7 points
—97.4 percent weighted average amenity weight
—Nominal area weight: 20 percent
- Common Areas
—Score: 77 points
—20 percent weighted average amenity weight
—Nominal area weight: 15 percent
- Dwelling Units
—Score: 85 points
—94 weighted average amenity weight
—Nominal area weight: 35 percent

To calculate the property score, the adjusted area weights for all five inspectable areas are determined. The amenity weights for each of the five inspectable areas shown in the table below are all presumed, except for the amenity weight for building systems that was calculated in the three examples above.

The property score is determined as follows. The amenity weighted average is computed by multiplying the nominal area weight for the inspectable area (see Item 1 of this Section) by the amenity weight (presumed for the example). Next, the amenity weighted averages for the five inspectable areas are added to determine the total adjusted weight (80.5 in this example) to determine the maximum possible points for the inspectable area, each amenity weighted average is divided by the total adjusted weight and then multiplied by 100 to

normalize the result. The sum of the five maximum inspectable area points is the total number of possible points for the property. In this example, the maximum possible points, 99.9, was rounded to 100.

Inspectable area	Nominal area weight	×	Amenity weight	=	Amenity weighted average	÷	Total adjusted weight	×	Normalized to 100 point scale	=	Maximum Possible area points
Site	15		0.675		10.1		80.5		100		12.5
Building Exterior	15		1.00		15.0		80.5		100		18.6
Building Systems	20		0.974		19.5		80.5		100		24.2
Common Areas	15		0.20		3.0		80.5		100		3.7
Dwelling Units	35		0.94		32.9		80.5		100		40.9
Total					80.5						100.0

Before the final property score is calculated, the points deducted for each deficiency are checked against the point loss cap in the applicable inspectable area to assure that no single deficiency results in the deduction of too many points. For the missing/damaged/expired fire extinguishers in building one, the points deducted under building systems will be the result of multiplying the number of building systems points deducted for the deficiency (74.2 as determined in example #2) by the proportion of total points allocated to the building systems inspectable area (.242 from the table above). In this example, the points deducted for this deficiency would be 74.2 × .242 = 18.0. Because the point loss cap for building systems is 10 points, this 18.0 point deduction exceeds the cap. Therefore, the total points deducted due to the missing/damaged/expired fire extinguishers deficiency in building one is reduced to 10.

There are four steps to implement the point deduction in the final score. First, the points lost at the area level are set. For this property, the building systems points deducted due to missing/damaged/expired fire extinguishers is set by dividing the point cap (10) by the proportion of total points allocated to building systems (.242), or 10 ÷ .242 = 41.3.

Second, the building systems sub-area weight for building one is set. This is determined by dividing the points lost at the area level (41.3) by the proportion of building weight for building one (.958), or 41.3 ÷ .958 = 43.1.

Third, the building one building systems sub-area score is recalculated by summing the building systems deficiencies in building one. In example #1, the missing/damaged/expired fire extinguishers is the only deficiency in this sub-area. Therefore, the recalculated sub-area score for building one building systems is the amenity score (100) minus the building systems sub-area deficiency points (43.1), or 100 − 43.1 = 56.9.

The last step in the application of the point loss cap is the determination of the building systems area score for the property.

Building	Number of units	×	Amenity weight	=	Unit weighted average	÷	Sum of the building weights	×	Initial proportionate score	=	Building systems area score
One	28		1.00		28.0		29.24		56.9		54.5
Two	2		0.62		1.24		29.24		100.0		4.2
Total	30				29.24						58.7

The recalculated building systems area score is 58.7 points, and will be rounded to 59. This area score is used to calculate the overall property score.

The nominal possible points for each inspectable area is multiplied by the amenity weight, divided by the total adjusted amenity weight, and normalized to a 100-point basis, in order to produce the possible points for the inspectable area. The property score is the sum of all weighted inspectable area scores for that property. The example below reflects how the missing/damaged/expired fire extinguishers deficiency from example #1 in building systems impacts the overall property score. In this example, the property score of 78.9 is rounded to 79.

Inspectable area	Area points	×	Area score	÷	Normalized to a 100 point scale	=	Project weighted area scores
Site	12.5		90		100		11.2
Building Exterior	18.6		85		100		15.8
Building Systems	24.2		59		100		14.3
Common Areas	3.7		77		100		2.8
Dwelling Units	40.9		85		100		34.8
Total	100.0						78.9

13. Computing the PHAS Physical Inspection Score

The physical inspection score for the PHAS for a PHA is the weighted average of the PHA's individual project physical inspection scores, where the weights are the number of units in each project divided by the total number of units in all projects for the PHA.

Example: Project 1 has a score of 79 and has 30 units (from the example above)

Project 2 has a score of 88 and has 600 units.

The overall PHAS score is computed as follows:

Score = [79 × 30/(30+600)] + [88 × 600/(30+600)]
= 3.76 + 83.81
= 87.57 that rounds to an overall physical inspection score of 88.

14. Examples of Sampling Weights for Buildings

The determination of which buildings will be inspected is a two-phase process. In Phase 1 of the process, all common buildings and buildings that contain sampled dwelling units that will be inspected are included in the sampled buildings that will be inspected. (Dwelling units are sampled with equal probabilities at random from all buildings.) When all buildings in a project are not selected in the building sample through Phase 1, Phase 2 is used to increase the size of the building sample. In Phase 2, the additional buildings that are to be included in the sample are selected with equal probabilities so that the total residential building sample size is the lesser of either (1) the dwelling unit sample size, or (2) the number of residential buildings.

To illustrate the process for sampling buildings, two examples are provided below:

Example #1. This example illustrates a project with two buildings for which both buildings are sampled with certainty.

Building 1 has 10 dwelling units and building 2 has 20 dwelling units, for a total of 30 dwelling units. The target dwelling unit sample size for a project with 30 dwelling units is 15. Thus, the sampling ratio for this project is the total number of dwelling units divided by the unit sample size, or 30 ÷ 15 = 2. This means that every second dwelling unit will be selected. The number of residential buildings to be inspected is the minimum of 15 (the dwelling unit sample) and 2 (the number of residential buildings). Thus, 2 residential buildings will be inspected. Since both buildings have at least 2 dwelling units, both buildings are certain to be selected for inspection in Phase 1. Since all buildings were selected in Phase 1 of sampling, Phase 2 is not invoked. Both buildings will then have a selection probability of 1.00 and a sampling weight of 1.00.

Example #2. This example illustrates a project with some buildings selected in Phase 1, other buildings selected in Phase 2, and some buildings that are not selected at all.

The project is comprised of 22 residential buildings. Two of the buildings each have 10 dwelling units and the other 20 buildings are single-family dwelling units, for a total of 40 dwelling units (2 × 10) + 20 = 40. The target dwelling unit sample size for a project with 40 dwelling units is 16. The sampling ratio for this project is the total number of units divided by the unit sample size, or 40 ÷ 16 = 2.5. In accordance with the inspection protocol of inspecting the minimum of the dwelling unit sample (16) and the number of residential buildings (22), 16 of the residential buildings will be inspected for this project.

In Phase 1 of sampling, the two buildings with 10 dwelling units are selected with certainty since each building has more than 2.5 dwelling units. Each of the single-family buildings has a 1 ÷ 2.5 or 0.40 probability of selection in Phase 1.

Assume that both multi-unit buildings and eight of the single-family buildings (10 buildings in all) are selected in Phase 1. This leaves 12 single-family buildings available for selection in Phase 2. Since 16 residential buildings will be inspected, the sample of 10 buildings selected in Phase 1 falls six buildings short of a full sample. Therefore, six buildings will be selected in Phase 2. Since Phase 2 sampling will select 6 of the 12 previously unselected buildings, each building not selected in Phase 1 will have a six in 12 (0.50) probability of selection in Phase 2.

The two multi-unit buildings each have a sampling probability calculated as follows:

Sampling probability = 1.00 + ((1.00 − 1.00) × 0.50) = 1.00. The sampling weight for these buildings is 1.

The single-family buildings each have a sampling probability calculated as follows:

Sampling probability = 0.40 + ((1.00 − 0.40) × 0.50) = 0.70. The sampling weight of selected single-family buildings is 1 ÷ 0.70 = 1.43.

15. Accessibility Questions

HUD reviews particular elements during the physical inspection to determine possible indications of noncompliance with the Fair Housing Act (42 U.S.C. 3601–3619) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). More specifically, during the physical inspection, the inspector will record if: (1) There is a wheelchair-accessible route to and from the main ground floor entrance of the buildings inspected; (2) the main entrance for every building inspected is at least 32 inches wide, measured between the door and the opposite door jamb; (3) there is an accessible route to all exterior common areas; and (4) for multi-story buildings that are inspected, the interior hallways to all inspected units and common areas are at least 36 inches wide. These items are recorded, but do not affect the score.

IV. Environmental Review

This notice provides operating instructions and procedures in connection with activity under the Public Housing Assessment System regulations at 24 DFR part 902 that have previously been subject to the required environmental review. Accordingly, under 24 CFR 50.19(c)(4), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: July 26, 2012.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

Appendix I: Item Weights and Criticalities

AREA—SITE

Inspectable item	Nominal item weight (percent)	Observable deficiency	Criticality	Level			H&S
				1	2	3	
Fencing and Gates	10.0	Holes/Missing Sections/Damaged/Falling/Leaning (Non-security/Non-safety).	3	....	X	....	.....
	10.0	Holes/Missing Sections/Damaged/Falling/Leaning (Security/Safety).	4	X	X	X	NLT
Grounds	12.5	Erosion/Rutting Areas	4	....	X	X	NLT
	12.5	Overgrown/Penetrating Vegetation	3	....	X	X	.....
	12.5	Ponding/Site Drainage	4	....	X	X	.....
Health & Safety	12.5	Air Quality—Sewer Odor Detected	3	....	....	X	NLT
	12.5	Air Quality—Propane/Natural Gas/Methane Gas Detected	5	....	....	X	LT

AREA—SITE—Continued

Inspectable item	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	12.5	Electrical Hazards—Exposed Wires/Open Panels	5	....	....	X	LT
	12.5	Electrical Hazards—Water Leaks on/near Electrical Equipment.	5	....	....	X	LT
	12.5	Flammable/Combustible Materials—Improperly Stored	3	....	....	X	NLT
	12.5	Garbage and Debris—Outdoors	3	....	....	X	NLT
	0.0	Hazards—Other	3	....	....	X	NLT
	12.5	Hazards—Sharp Edges	3	....	....	X	NLT
	12.5	Hazards—Tripping	3	....	....	X	NLT
	12.5	Infestation—Insects	3	....	....	X	NLT
	12.5	Infestation—Rats/Mice/Vermin	3	....	....	X	NLT
Mailboxes/Project Signs	1.0	Mailbox Missing/Damaged	2	....	....	X	.....
	1.0	Signs Damaged	2	X	....	....	.....
Market Appeal	8.0	Graffiti	4	X	X	X	.....
	8.0	Litter	4	....	X	....	.....
Parking Lots/Driveways/ Roads.	8.5	Cracks/Settlement/Heaving/Loose Materials/Potholes	4	....	X	X	.....
	8.5	Ponding	4	....	X	X	.....
Play Areas and Equipment	12.5	Damaged/Broken Equipment	3	X	X	X	NLT
	12.5	Deteriorated Play Area Surface	3	....	X	X	.....
Refuse Disposal	12.5	Broken/Damaged Enclosure—Inadequate Outside Storage Space.	3	....	X	....	.....
Retaining Walls	10.0	Damaged/Falling/Leaning	4	X	....	X	NLT
Storm Drainage	12.5	Damaged/Obstructed	5	....	X	X	.....
Walkways/Steps	12.5	Broken/Missing Hand Railing	3	....	....	X	NLT
	12.5	Cracks/Settlement/Heaving	3	....	X	....	.....
	12.5	Spalling	3	X	X	....	.....

NOTE: 1) Nominal item weight assumes that all items for the Site are present. Item weights would be adjusted accordingly when items are not applicable (N/A).
2) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 12.5%.
3) "X" in the level column indicates which levels are applicable.
4) Only level 3 is applied to H&S deficiencies.
5) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy).

AREA—BUILDING EXTERIOR

Inspectable item	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Doors	18.4	Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	18.4	Damaged Hardware/Locks	3	....	X	X	.....
	18.4	Damaged Surface (Holes/Paint/Rust/Glass)	4	....	X	X	.....
	18.4	Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	18.4	Deteriorated/Missing Caulking/Seals	4	....	....	X	.....
	18.4	Missing Door	5	....	....	X	.....
FHEO	0.0	FHEO—Main Entrance Less Than 32" Wide	5	....	....	X	.....
	0.0	FHEO—Obstructed or Missing Accessibility Route	5	....	....	X	.....
Fire Escapes	18.4	Blocked Egress/Ladders	5	....	....	X	LT
	18.4	Visibly Missing Components	5	....	....	X	LT
Foundations	18.4	Cracks/Gaps	5	....	X	X	.....
	18.4	Spalling/Exposed Rebar	4	....	X	X	.....
Health and Safety	18.4	Electrical Hazards—Exposed Wires/Open Panels	5	....	....	X	LT
	18.4	Electrical Hazards—Water Leaks on/near Electrical Equipment.	5	....	....	X	LT
	18.4	Emergency Fire Exits—Emergency/Fire Exits Blocked/Unusable.	5	....	....	X	LT
	18.4	Emergency Fire Exits—Missing Exit Signs	3	....	....	X	NLT
	18.4	Flammable/Combustible Materials—Improperly Stored	3	....	....	X	NLT
	18.4	Garbage and Debris—Outdoors	3	....	....	X	NLT
	0.0	Hazards—Other	3	....	....	X	NLT
	18.4	Hazards—Sharp Edges	3	....	....	X	NLT
	0.0	Hazards—Tripping	3	....	....	X	NLT
	18.4	Infestation—Insects	3	....	....	X	NLT
	18.4	Infestation—Rats/Mice/Vermin	3	....	....	X	NLT
Lighting	11.5	Broken Fixtures/Bulbs	4	....	X	X	.....
Roofs	18.4	Damaged/Clogged Drains	5	....	X	X	.....
	18.4	Damaged Soffits/Fascia/Soffit Vents	4	X	....	X	.....

AREA—BUILDING EXTERIOR—Continued

Inspectable item	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	18.4	Damaged Vents	4	X	....	X	.....
	18.4	Damaged/Torn Membrane/Missing Ballast	5	....	X	X	.....
	18.4	Missing/Damaged Components from Downspout/Gutter	3	X	X	X	.....
	18.4	Missing/Damaged Shingles	5	X	X	X	.....
	18.4	Ponding	4	....	....	X	.....
Walls	14.9	Cracks/Gaps	5	....	X	X	.....
	14.9	Damaged Chimneys	4	X	X	X	NLT
	14.9	Missing/Damaged Caulking/Mortar	4	X	X	....	.....
	14.9	Missing Pieces/Holes/Spalling	4	....	X	X	.....
	14.9	Stained/Peeling/Needs Paint	3	X	X	....	.....
Windows	0.0	Cracked/Broken/Missing Panes	3	X	....	X	NLT
	0.0	Damaged/Missing Screens	2	X	....	....	.....
	0.0	Damaged Sills/Frames/Lintels/Trim	5	X	X	....	.....
	0.0	Missing/Deteriorated Caulking/Seals/Glazing Compound	5	X	....	X	.....
	0.0	Peeling/Needs Paint	2	X	....	....	.....

Note: 1) Nominal item weight assumes that all items for the Building Exterior are present. Item weights would be adjusted accordingly when items are not applicable (N/A).
2) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 18.4%.
3) "X" in the level column indicates which levels are applicable.
4) Only level 3 is applied to H&S deficiencies.
5) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy).

AREA—BUILDING SYSTEMS

Inspectable item	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Domestic Water	15.5	General Rust/Corrosion on Heater Chimney	2	....	....	X	NLT
	15.5	Leaking Central Water Supply	4	....	....	X	.....
	15.5	Misaligned Chimney/Ventilation System	5	....	....	X	LT
	15.5	Missing Pressure Relief Valve	5	....	....	X	NLT
	15.5	Water Supply Inoperable	5	....	....	X	NLT
Electrical System	15.5	Blocked Access/Improper Storage	3	....	....	X	NLT
	15.5	Burnt Breakers	4	....	....	X	NLT
	15.5	Evidence of Leaks/Corrosion	5	....	....	X	NLT
	15.5	Frayed Wiring	5	....	....	X	.....
	15.5	Missing Breakers/Fuses	5	....	....	X	LT
	15.5	Missing Covers	5	....	....	X	LT
Elevators	5.0	Inoperable	5	....	....	X	NLT
Emergency Power	2.0	Auxiliary Lighting Inoperable	5	....	....	X	.....
	2.0	Run-Up Records/Documentation Not Available	4	....	X	X	.....
Fire Protection	15.5	Missing Sprinkler Head	5	....	....	X	NLT
	15.5	Missing/Damaged/Expired Extinguishers	5	X	X	X	LT
Health & Safety	15.5	Air Quality—Mold and/or Mildew Observed	3	....	....	X	NLT
	15.5	Air Quality—Propane/Natural Gas/Methane Gas Detected	5	....	....	X	LT
	15.5	Air Quality—Sewer Odor Detected	3	....	....	X	NLT
	15.5	Electrical Hazards—Exposed Wires/Open Panels	5	....	....	X	LT
	15.5	Electrical Hazards—Water Leaks on/near Electrical Equipment.	5	....	....	X	LT
	15.5	Elevator—Tripping	3	....	....	X	NLT
	15.5	Emergency Fire Exits—Emergency/Fire Exits Blocked/Unusable.	5	....	....	X	LT
	15.5	Emergency Fire Exits—Missing Exit Signs	3	....	....	X	NLT
	15.5	Flammable/Combustible Materials—Improperly Stored	3	....	....	X	NLT
	15.5	Garbage and Debris—Indoors	3	....	....	X	NLT
	15.5	Garbage and Debris—Outdoors	3	....	....	X	NLT
	0.0	Hazards—Other	3	....	....	X	NLT
	15.5	Hazards—Sharp Edges	3	....	....	X	NLT
	0.0	Hazards—Tripping	3	....	....	X	NLT
	15.5	Infestation—Insects	3	....	....	X	NLT
	15.5	Infestation—Rats/Mice/Vermin	3	....	....	X	NLT
HVAC	15.5	Boiler/Pump/Cooling System Leaks	4	X	....	X	.....
	15.5	Fuel Supply Leaks	4	....	....	X	NLT
	15.5	General Rust/Corrosion	2	....	X	X	NLT
	15.5	Misaligned Chimney/Ventilation System	5	....	....	X	LT
Roof Exhaust System	15.5	Roof Exhaust Fan(s) Inoperable	3	....	....	X	.....

AREA—BUILDING SYSTEMS—Continued

Inspectable item	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Sanitary System	15.5	Broken/Leaking/Clogged Pipes or Drains	5	....	....	X	NLT
	15.5	Missing Drain/Cleanout/Manhole Covers	3	....	....	X	.....

Note: 1) Nominal item weight assumes that all items for the Building System are present. Item weights would be adjusted accordingly when items are not applicable (N/A).
2) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 15.5%.
3) "X" in the level column indicates which levels are applicable.
4) Only level 3 is applied to H&S deficiencies.
5) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy).

AREA—COMMON AREAS

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Basement/Garage/Carport	5	Ceiling—Bulging/Buckling	4	....	....	X	.....
	5	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	5	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	5	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Doors—Damaged Frames/Threshold/Lintels/Trim	3	....	X	X	NLT
	5	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	5	Doors—Damaged/Missing Screen/Storm/Security Door	4	X	....	X	NLT
	5	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	5	Doors—Deteriorated/Missing Seals (Entry Only)	5	....	....	X	.....
	5	Doors—Missing Door	4	X	X	X	.....
	5	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	5	Electrical—Burnt Breakers	4	....	....	X	NLT
	5	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	5	Electrical—Frayed Wiring	5	....	....	X	.....
	5	Electrical—Missing Breakers	5	....	....	X	LT
	5	Electrical—Missing Covers	5	....	....	X	LT
	5	Floors—Bulging/Buckling	4	....	....	X	.....
	5	Floors—Soft Floor Covering Damaged	4	X	X	X	.....
	5	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	5	Floors—Peeling/Needs Paint	1	X	X	....	.....
	5	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	5	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	5	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	5	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	5	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	5	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	5	Walls—Bulging/Buckling	4	....	....	X	.....
	5	Walls—Damaged	3	X	X	X	.....
	5	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	5	Walls—Peeling/Needs Paint	1	X	X	....	.....
	5	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	5	Windows—Damaged/Missing Screens	2	X	....	....	.....
	5	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	5	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	5	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	5	Windows—Peeling/Needs Paint	1	X	....	....	.....
	5	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Closet/Utility Mechanical	5	Ceiling—Bulging/Buckling	4	....	....	X	.....
	5	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	5	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	5	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	5	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	5	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	5	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	5	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	5	Doors—Missing Door	5	X	X	X	NLT
	5	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	5	Electrical—Burnt Breakers	4	....	....	X	NLT

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	5	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	5	Electrical—Frayed Wiring	5	....	....	X	.....
	5	Electrical—Missing Breakers	5	....	....	X	LT
	5	Electrical—Missing Covers	5	....	....	X	LT
	5	Floors—Bulging/Buckling	4	....	....	X	.....
	5	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	5	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	5	Floors—Peeling/Needs Paint	1	X	X	....	.....
	5	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	5	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	5	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	5	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	5	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	5	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	5	Walls—Bulging/Buckling	4	....	....	X	.....
	5	Walls—Damaged	3	X	X	X	.....
	5	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	5	Walls—Peeling/Needs Paint	1	X	X	....	.....
	5	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	5	Windows—Damaged/Missing Screens	2	X	....	....	.....
	5	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	5	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	5	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	5	Windows—Peeling/Needs Paint	1	X	....	....	.....
	5	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Community Room	10	Ceiling—Bulging/Buckling	4	....	....	X	.....
	10	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	10	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	10	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	10	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	10	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	10	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	10	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	10	Doors—Missing Door	5	X	X	X	NLT
	10	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	10	Electrical—Burnt Breakers	4	....	....	X	NLT
	10	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	10	Electrical—Frayed Wiring	5	....	....	X	.....
	10	Electrical—Missing Breakers	5	....	....	X	LT
	10	Electrical—Missing Covers	5	....	....	X	LT
	10	Floors—Bulging/Buckling	4	....	....	X	.....
	10	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	10	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	10	Floors—Peeling/Needs Paint	1	X	X	....	.....
	10	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	10	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	10	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	10	HVAC—Inoperable	5	....	....	X	.....
	10	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	10	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....
	10	HVAC—General Rust/Corrosion	2	X	X	X	.....
	10	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	10	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	10	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	10	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	10	Walls—Bulging/Buckling	4	....	....	X	.....
	10	Walls—Damaged	3	X	X	X	.....
	10	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	10	Walls—Peeling/Needs Paint	1	X	X	....	.....
	10	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	10	Windows—Damaged/Missing Screens	2	X	....	....	.....

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	10	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	10	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	10	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	10	Windows—Peeling/Needs Paint	1	X	....	....	.....
	10	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Day Care	10	Ceiling—Bulging/Buckling	4	....	....	X	.....
	10	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	10	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	10	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	10	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	10	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	10	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	10	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	10	Doors—Missing Door	5	X	X	X	.....
	10	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	10	Electrical—Burnt Breakers	4	....	....	X	NLT
	10	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	10	Electrical—Frayed Wiring	5	....	....	X	.....
	10	Electrical—Missing Breakers	5	....	....	X	LT
	10	Electrical—Missing Covers	5	....	....	X	LT
	10	Floors—Bulging/Buckling	4	....	....	X	.....
	10	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	10	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	10	Floors—Peeling/Needs Paint	1	X	X	....	.....
	10	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	10	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	10	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	10	HVAC—Inoperable	5	....	....	X	.....
	10	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	10	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....
	10	HVAC—General Rust/Corrosion	2	X	X	X	.....
	10	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	10	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	10	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	10	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	10	Walls—Bulging/Buckling	4	....	....	X	.....
	10	Walls—Damaged	3	X	X	X	.....
	10	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	10	Walls—Peeling/Needs Paint	1	X	X	....	.....
	10	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	10	Windows—Damaged/Missing Screens	2	X	....	....	.....
	10	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	10	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	10	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	10	Windows—Peeling/Needs Paint	1	X	....	....	.....
	10	Windows—Security Bars Prevent Egress	5	....	....	X	LT
FHEO	0	FHEO—Multi-story Building Hallways/Common Areas Less Than 36'' Wide.	5	....	....	X	.....
	0	FHEO—Routes Obstructed or Inaccessible to Wheelchair	5	....	....	X	.....
Halls/Corridors/Stairs	10	Ceiling—Bulging/Buckling	4	....	....	X	.....
	10	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	10	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	10	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	10	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	10	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	10	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	10	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	10	Doors—Missing Door	5	X	X	X	.....
	10	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	10	Electrical—Burnt Breakers	4	....	....	X	NLT
	10	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	10	Electrical—Frayed Wiring	5	....	....	X	.....

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	10	Electrical—Missing Breakers	5	....	....	X	LT
	10	Electrical—Missing Covers	5	....	....	X	LT
	10	Floors—Bulging/Buckling	4	....	....	X	.....
	10	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	10	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	10	Floors—Peeling/Needs Paint	1	X	X	....	.....
	10	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	10	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	10	Graffiti	4	X	X	X	.....
	10	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	10	HVAC—Inoperable	5	....	....	X	.....
	10	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	10	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....
	10	HVAC—General Rust/Corrosion	2	X	X	X	.....
	10	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	10	Mailbox—Missing/Damaged	2	....	....	X	.....
	10	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	10	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	10	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	10	Walls—Bulging/Buckling	4	....	....	X	.....
	10	Walls—Damaged	3	X	X	X	.....
	10	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	10	Walls—Peeling/Needs Paint	1	X	X	....	.....
	10	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	10	Windows—Damaged/Missing Screens	2	X	....	....	.....
	10	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	10	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	10	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	10	Windows—Peeling/Needs Paint	1	X	....	....	.....
	10	Windows—Security Bars Prevent Egress	5	....	....	X	LT
	10	Pedestrian/Wheelchair Ramp	3	....	X	X	.....
Health & Safety	10	Air Quality—Mold and/or Mildew Observed	3	....	....	X	NLT
	10	Air Quality—Propane/Natural Gas/Methane Gas Detected	5	....	....	X	LT
	10	Air Quality—Sewer Odor Detected	3	....	....	X	NLT
	10	Electrical Hazards—Exposed Wires/Open Panels	5	....	....	X	LT
	10	Electrical Hazards—Water Leaks on/near Electrical Equipment.	5	....	....	X	LT
	10	Emergency Fire Exits—Emergency/Fire Exits Blocked/Unusable.	3	....	....	X	LT
	10	Emergency Fire Exits—Missing Exit Signs	3	....	....	X	NLT
	10	Flammable/Combustible Materials—Improperly Stored	3	....	....	X	NLT
	10	Garbage and Debris—Indoors	3	....	....	X	NLT
	10	Garbage and Debris—Outdoors	3	....	....	X	NLT
	0	Hazards—Other	3	....	....	X	NLT
	10	Hazards—Sharp Edges	3	....	....	X	NLT
	0	Hazards—Tripping	3	....	....	X	NLT
	10	Infestation—Insects	3	....	....	X	NLT
	10	Infestation—Rats/Mice/Vermin	3	....	....	X	NLT
Kitchen	10	Cabinets—Missing/Damaged	2	....	X	X	.....
	10	Call for Aid—Inoperable	3	....	....	X	NLT
	10	Ceiling—Bulging/Buckling	4	....	....	X	.....
	10	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	10	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	10	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Countertops—Missing/Damaged	2	....	X	....	.....
	10	Dishwasher/Garbage Disposal—Inoperable	2	....	X	....	.....
	10	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	10	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	10	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	10	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	10	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	10	Doors—Missing Door	5	X	X	X	.....
	10	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	10	Electrical—Burnt Breakers	4	....	....	X	NLT
	10	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	10	Electrical—Frayed Wiring	5	....	....	X	.....
	10	Electrical—Missing Breakers	5	....	....	X	LT
	10	Electrical—Missing Covers	5	....	....	X	LT
	10	Floors—Bulging/Buckling	4	....	....	X	.....
	10	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	10	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	10	Floors—Peeling/Needs Paint	1	X	X	....	.....
	10	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	10	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	10	GFI—Inoperable	5	....	....	X	NLT
	10	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	10	HVAC—Inoperable	5	....	....	X	.....
	10	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	10	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....
	10	HVAC—General Rust/Corrosion	2	X	X	X	.....
	10	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	10	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	10	Plumbing—Clogged Drains	4	X	....	X	NLT
	10	Plumbing—Leaking Faucet/Pipes	3	X	....	X	NLT
	10	Range/Stove—Missing/Damaged/Inoperable	3	X	X	X	.....
	10	Range Hood/Exhaust Fans—Excessive Grease/Inoperable	2	X	....	X	.....
	10	Refrigerator—Damaged/Inoperable	3	X	....	X	.....
	10	Sink—Missing/Damaged	5	X	....	X	NLT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	10	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	10	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	10	Walls—Bulging/Buckling	4	....	....	X	.....
	10	Walls—Damaged	3	X	X	X	.....
	10	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	10	Walls—Peeling/Needs Paint	1	X	X	....	.....
	10	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	10	Windows—Damaged/Missing Screens	2	X	....	....	.....
	10	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	10	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	10	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	10	Windows—Peeling/Needs Paint	1	X	....	....	.....
	10	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Laundry Room	10	Ceiling—Bulging/Buckling	4	....	....	X	.....
	10	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	10	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	10	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	10	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	10	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	10	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	10	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	10	Doors—Missing Door	5	X	X	X	.....
	10	Dryer Vent—Missing/Damaged/Inoperable	3	....	....	X	.....
	10	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	10	Electrical—Burnt Breakers	4	....	....	X	NLT
	10	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	10	Electrical—Frayed Wiring	5	....	....	X	.....
	10	Electrical—Missing Breakers	5	....	....	X	LT
	10	Electrical—Missing Covers	5	....	....	X	LT
	10	Floors—Bulging/Buckling	4	....	....	X	.....
	10	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	10	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	10	Floors—Peeling/Needs Paint	1	X	X	....	.....
	10	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	10	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	10	GFI—Inoperable	5	....	....	X	NLT
	10	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	10	HVAC—Inoperable	5	....	....	X	.....
	10	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	10	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	10	HVAC—General Rust/Corrosion	2	X	X	X	.....
	10	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	10	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	10	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	10	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	10	Walls—Bulging/Buckling	4	....	....	X	.....
	10	Walls—Damaged	3	X	X	X	.....
	10	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	10	Walls—Peeling/Needs Paint	1	X	X	....	.....
	10	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	10	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	10	Windows—Damaged/Missing Screens	2	X	....	....	.....
	10	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	10	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	10	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	10	Windows—Peeling/Needs Paint	1	X	....	....	.....
	10	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Lobby	5	Ceiling—Bulging/Buckling	4	....	....	X	.....
	5	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	5	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	5	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	5	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	5	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	5	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	5	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	5	Doors—Missing Door	5	X	X	X	.....
	5	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	5	Electrical—Burnt Breakers	4	....	....	X	NLT
	5	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	5	Electrical—Frayed Wiring	5	....	....	X	.....
	5	Electrical—Missing Breakers	5	....	....	X	LT
	5	Electrical—Missing Covers	5	....	....	X	LT
	5	Floors—Bulging/Buckling	4	....	....	X	.....
	5	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	5	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	5	Floors—Peeling/Needs Paint	1	X	X	....	.....
	5	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	5	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	5	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	5	HVAC—Inoperable	5	....	....	X	.....
	5	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	5	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....
	5	HVAC—General Rust/Corrosion	2	X	X	X	.....
	5	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	5	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	5	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	5	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	5	Walls—Bulging/Buckling	4	....	....	X	.....
	5	Walls—Damaged	3	X	X	X	.....
	5	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	5	Walls—Peeling/Needs Paint	1	X	X	....	.....
	5	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	5	Windows—Damaged/Missing Screens	2	X	....	....	.....
	5	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	5	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	5	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	5	Windows—Peeling/Needs Paint	1	X	....	....	.....
	5	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Office	5	Ceiling—Bulging/Buckling	4	....	....	X	.....
	5	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	5	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	5	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	5	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	5	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	5	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	5	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	5	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	5	Doors—Missing Door	5	X	X	X	.....
	5	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	5	Electrical—Burnt Breakers	4	....	....	X	NLT
	5	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	5	Electrical—Frayed Wiring	5	....	....	X	.....
	5	Electrical—Missing Breakers	5	....	....	X	LT
	5	Electrical—Missing Covers	5	....	....	X	LT
	5	Floors—Bulging/Buckling	4	....	....	X	.....
	5	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	5	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	5	Floors—Peeling/Needs Paint	1	X	X	....	.....
	5	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	5	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	5	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	5	HVAC—Inoperable	5	....	....	X	.....
	5	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	5	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....
	5	HVAC—General Rust/Corrosion	2	X	X	X	.....
	5	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	5	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	5	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	5	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	5	Walls—Bulging/Buckling	4	....	....	X	.....
	5	Walls—Damaged	3	X	X	X	.....
	5	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	5	Walls—Peeling/Needs Paint	1	X	X	....	.....
	5	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	5	Windows—Damaged/Missing Screens	2	X	....	....	.....
	5	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	5	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	5	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	5	Windows—Peeling/Needs Paint	1	X	....	....	.....
	5	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Other Community Spaces	5	Ceiling—Bulging/Buckling	4	....	....	X	.....
	5	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	5	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	5	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	5	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	5	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	5	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	5	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	5	Doors—Missing Door	5	X	X	X	.....
	5	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	5	Electrical—Burnt Breakers	4	....	....	X	NLT
	5	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	5	Electrical—Frayed Wiring	5	....	....	X	.....
	5	Electrical—Missing Breakers	5	....	....	X	LT
	5	Electrical—Missing Covers	5	....	....	X	LT
	5	Floors—Bulging/Buckling	4	....	....	X	.....
	5	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	5	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	5	Floors—Peeling/Needs Paint	1	X	X	....	.....
	5	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	5	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	5	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	5	HVAC—Inoperable	5	....	....	X	.....
	5	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	5	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	5	HVAC—General Rust/Corrosion	2	X	X	X	.....
	5	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	5	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	5	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	5	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	5	Walls—Bulging/Buckling	4	....	....	X	.....
	5	Walls—Damaged	3	X	X	X	.....
	5	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	5	Walls—Peeling/Needs Paint	1	X	X	....	.....
	5	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	5	Windows—Damaged/Missing Screens	2	X	....	....	.....
	5	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	5	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	5	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	5	Windows—Peeling/Needs Paint	1	X	....	....	.....
	5	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Patio/Porch/Balcony	5	Baluster/Side Railings—Damaged	3	....	....	X	.....
	5	Ceiling—Bulging/Buckling	4	....	....	X	.....
	5	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	5	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	5	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	5	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	5	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	5	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	5	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	5	Doors—Missing Door	5	X	X	X	.....
	5	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	5	Electrical—Burnt Breakers	4	....	....	X	NLT
	5	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	5	Electrical—Frayed Wiring	5	....	....	X	.....
	5	Electrical—Missing Breakers	5	....	....	X	LT
	5	Electrical—Missing Covers	5	....	....	X	LT
	5	Floors—Bulging/Buckling	4	....	....	X	.....
	5	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	5	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	5	Floors—Peeling/Needs Paint	1	X	X	....	.....
	5	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	5	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	5	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	5	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	5	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	5	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	5	Walls—Bulging/Buckling	4	....	....	X	.....
	5	Walls—Damaged	3	X	X	X	.....
	5	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	5	Walls—Peeling/Needs Paint	1	X	X	....	.....
	5	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	5	Windows—Damaged/Missing Screens	2	X	....	....	.....
	5	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	5	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	5	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	5	Windows—Peeling/Needs Paint	1	X	....	....	.....
	5	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Pools and Related Structures	5	Pools—Damaged/Not Intact—Fencing or Gate(s)	5	....	....	X	.....
	5	Pools—Inoperable	2	....	....	X	.....
Restrooms/Pool Structures	5	Call for Aid—Inoperable	3	....	....	X	NLT
	5	Ceiling—Bulging/Buckling	4	....	....	X	.....
	5	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	5	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	5	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	5	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	5	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	5	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	5	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	5	Doors—Missing Door	5	X	X	X	.....
	5	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	5	Electrical—Burnt Breakers	4	....	....	X	NLT
	5	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	5	Electrical—Frayed Wiring	5	....	....	X	.....
	5	Electrical—Missing Breakers	5	....	....	X	LT
	5	Electrical—Missing Covers	5	....	....	X	LT
	5	Floors—Bulging/Buckling	4	....	....	X	.....
	5	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	5	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	5	Floors—Peeling/Needs Paint	1	X	X	....	.....
	5	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....
	5	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	5	GFI—Inoperable	5	....	....	X	NLT
	5	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	5	HVAC—Inoperable	5	....	....	X	.....
	5	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	5	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....
	5	HVAC—General Rust/Corrosion	2	X	X	X	.....
	5	Lavatory Sink—Damaged/Missing	3	X	....	X	NLT
	5	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	5	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	5	Plumbing—Clogged Drains	5	X	....	X	NLT
	5	Plumbing—Leaking Faucet/Pipes	4	X	....	X	NLT
	5	Restroom Cabinet—Damaged/Missing	2	X	....	....	.....
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	5	Shower/Tub—Damaged/Missing	4	....	X	X	.....
	5	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	5	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	5	Ventilation/Exhaust System—Inoperable	4	....	X	....	.....
	5	Walls—Bulging/Buckling	4	....	....	X	.....
	5	Walls—Damaged	3	X	X	X	.....
	5	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	5	Walls—Peeling/Needs Paint	1	X	X	....	.....
	5	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Water Closet/Toilet—Damaged/Clogged/Missing	5	....	X	X	.....
	5	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	5	Windows—Damaged/Missing Screens	2	X	....	....	.....
	5	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	5	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	5	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	5	Windows—Peeling/Needs Paint	1	X	....	....	.....
	5	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Storage	5	Ceiling—Bulging/Buckling	4	....	....	X	.....
	5	Ceiling—Holes/Missing Tiles/Panels/Cracks	4	X	X	X	.....
	5	Ceiling—Peeling/Needs Paint	1	X	X	....	.....
	5	Ceiling—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Doors—Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	5	Doors—Damaged Hardware/Locks	3	X	X	X	.....
	5	Doors—Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	5	Doors—Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	.....
	5	Doors—Deteriorated/Missing Seals (Entry Only)	4	....	....	X	.....
	5	Doors—Missing Door	5	X	X	X	.....
	5	Electrical—Blocked Access to Electrical Panel	3	....	....	X	NLT
	5	Electrical—Burnt Breakers	4	....	....	X	NLT
	5	Electrical—Evidence of Leaks/Corrosion	5	....	....	X	NLT
	5	Electrical—Frayed Wiring	5	....	....	X	.....
	5	Electrical—Missing Breakers	5	....	....	X	LT
	5	Electrical—Missing Covers	5	....	....	X	LT
	5	Floors—Bulging/Buckling	4	....	....	X	.....
	5	Floors—Soft Floor Covering Missing/Damaged	4	X	X	X	.....
	5	Floors—Hard Floor Covering Missing/Damaged Flooring/Tiles.	4	X	X	X	.....
	5	Floors—Peeling/Needs Paint	1	X	X	....	.....
	5	Floors—Rot/Deteriorated Subfloor	4	....	X	X	.....

AREA—COMMON AREAS—Continued

Inspectable item location	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	5	Floors—Mold/Mildew/Water Stains/Water Damage	2	....	X	X	.....
	5	HVAC—Misaligned Chimney/Ventilation System	5	....	....	X	LT
	5	HVAC—Inoperable	5	....	....	X	.....
	5	HVAC—Noisy/Vibrating/Leaking	4	X	....	....	.....
	5	HVAC—Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	.....
	5	HVAC—General Rust/Corrosion	2	X	X	X	.....
	5	Lighting—Missing/Damaged/Inoperable Fixture	4	....	X	X	.....
	5	Outlets/Switches/Cover Plates—Missing/Broken	3	X	....	X	LT
	0	Smoke Detector—Missing/Inoperable	5	....	....	X	LT
	5	Stairs—Broken/Damaged/Missing Steps	3	....	....	X	NLT
	5	Stairs—Broken/Missing Hand Railing	3	....	....	X	NLT
	5	Walls—Bulging/Buckling	4	....	....	X	.....
	5	Walls—Damaged	3	X	X	X	.....
	5	Walls—Damaged/Deteriorated Trim	1	X	X	X	.....
	5	Walls—Peeling/Needs Paint	1	X	X	....	.....
	5	Walls—Mold/Mildew/Water Stains/Water Damage	2	X	....	X	.....
	5	Windows—Cracked/Broken/Missing Panes	3	X	....	X	NLT
	5	Windows—Damaged/Missing Screens	2	X	....	....	.....
	5	Windows—Damaged Sills/Frames/Lintels/Trim	4	X	X	....	.....
	5	Windows—Missing/Deteriorated Caulking/Seals/Glazing Compound.	5	X	....	X	.....
	5	Windows—Inoperable/Not Lockable	3	X	....	X	NLT
	5	Windows—Peeling/Needs Paint	1	X	....	....	.....
	5	Windows—Security Bars Prevent Egress	5	....	....	X	LT
Trash Collection Areas	5	Chutes—Damaged/Missing Components	3	....	X	....	.....

Note: 1) Nominal item weight assumes that all items for the Common Areas are present. Item weights would be adjusted accordingly when items are not applicable (N/A).
2) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 10%.
3) "X" in the level column indicates which levels are applicable.
4) Only Level 3 is applied to H&S deficiencies.
5) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy).

AREA—UNITS

Inspectable item	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Bathroom	15.0	Bathroom Cabinets—Damaged/Missing	2	X	....	....	
	15.0	Lavatory Sink—Damaged/Missing	3	X	....	X	NLT
	15.0	Plumbing—Clogged Drains	5	X	....	X	NLT
	15.0	Plumbing—Leaking Faucet/Pipes	4	X	....	X	NLT
	15.0	Shower/Tub—Damaged/Missing	4	X	X	X	NLT
	15.0	Ventilation/Exhaust System—Inoperable	4	....	X	....	
	15.0	Water Closet/Toilet—Damaged/Clogged/Missing	5	....	X	X	NLT
Call-for-Aid	2.0	Inoperable	3	....	....	X	NLT
Ceiling	4.0	Bulging/Buckling	4	....	....	X	
	4.0	Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	4.0	Peeling/Needs Paint	1	X	X	....	
	4.0	Mold/Mildew/Water Stains/Water Damage	2	X	....	X	
Doors	4.5	Damaged Frames/Threshold/Lintels/Trim	2	....	X	X	NLT
	4.5	Damaged Hardware/Locks	3	X	X	X	
	4.5	Damaged/Missing Screen/Storm/Security Door	3	X	....	X	NLT
	4.5	Damaged Surface (Holes/Paint/Rust/Glass)	3	....	X	X	
	4.5	Deteriorated/Missing Seals (Entry Only)	4	....	....	X	
	4.5	Missing Door	5	X	X	X	NLT
Electrical System	10.0	Blocked Access to Electrical Panel	3	....	....	X	NLT
	10.0	Burnt Breakers	4	....	....	X	NLT
	10.0	Evidence of Leaks/Corrosion	5	....	....	X	NLT
	10.0	Frayed Wiring	5	....	....	X	
	10.0	GFI—Inoperable	5	....	....	X	NLT
	10.0	Missing Breakers/Fuses	5	....	....	X	LT
	10.0	Missing Covers	5	....	....	X	LT
Floors	4.0	Bulging/Buckling	4	....	....	X	
	4.0	Hard Floor Covering Missing/Damaged Flooring/Tiles	4	X	X	X	
	4.0	Mold/Mildew/Water Stains/Water Damage	2	....	X	X	
	4.0	Peeling/Needs Paint	1	X	X	....	
	4.0	Rot/Deteriorated Subfloor	4	....	X	X	

AREA—UNITS—Continued

Inspectable item	Nominal item weight (percent)	Observable deficiency	Criticality	Level 1	Level 2	Level 3	H&S
	4.0	Soft Floor Covering Missing/Damaged	4	X	X	X	
Health & Safety	15.0	Air Quality—Mold and/or Mildew Observed	3	....	....	X	NLT
	15.0	Air Quality—Sewer Odor Detected	3	....	....	X	NLT
	15.0	Air Quality—Propane/Natural Gas/Methane Gas Detected	5	....	....	X	LT
	15.0	Electrical Hazards—Exposed Wires/Open Panels	5	....	....	X	LT
	15.0	Electrical Hazards—Water Leaks on/near Electrical Equipment.	5	....	....	X	LT
	15.0	Emergency Fire Exits—Emergency/Fire Exits Blocked/Unusable.	5	....	....	X	LT
	15.0	Emergency Fire Exits—Missing Exit Signs	3	....	....	X	NLT
	15.0	Flammable/Combustible Materials—Improperly Stored	3	....	....	X	NLT
	15.0	Garbage and Debris—Indoors	3	....	....	X	NLT
	15.0	Garbage and Debris—Outdoors	3	....	....	X	NLT
	0.0	Hazards—Other	3	....	....	X	NLT
	15.0	Hazards—Sharp Edges	3	....	....	X	NLT
	0.0	Hazards—Tripping	3	....	....	X	NLT
	15.0	Infestation—Insects	3	....	....	X	NLT
	15.0	Infestation—Rats/Mice/Vermin	3	....	....	X	NLT
Hot Water Heater	10.0	General Rust/Corrosion	3	X	X	X	NLT
	10.0	Inoperable Unit/Components	5	....	....	X	NLT
	10.0	Leaking Valves/Tanks/Pipes	4	....	....	X	
	10.0	Misaligned Chimney/Ventilation System	5	....	....	X	LT
	10.0	Missing Pressure Relief Valve	5	....	....	X	NLT
HVAC System	15.0	Convection/Radiant Heat System Covers Missing/Damaged.	2	....	....	X	
	15.0	General Rust/Corrosion	2	X	....	....	
	15.0	Inoperable	5	....	....	X	
	15.0	Misaligned Chimney/Ventilation System	5	....	....	X	LT
	15.0	Noisy/Vibrating/Leaking	4	X	....	....	
Kitchen	15.0	Cabinets—Missing/Damaged	2	....	X	X	NLT
	15.0	Countertops—Missing/Damaged	2	....	X	....	NLT
	15.0	Dishwasher/Garbage Disposal—Inoperable	2	....	X	....	
	15.0	Plumbing—Clogged Drains	4	X	....	X	NLT
	15.0	Plumbing—Leaking Faucet/Pipes	3	X	....	X	NLT
	15.0	Range Hood/Exhaust Fans—Excessive Grease/Inoperable	2	X	....	X	
	15.0	Range/Stove—Missing/Damaged/Inoperable	3	X	X	X	
	15.0	Refrigerator-Missing/Damaged/Inoperable	3	X	....	X	NLT
	15.0	Sink—Missing/Damaged	5	X	....	X	NLT
Laundry Area (Room)	2.0	Dryer Vent—Missing/Damaged/Inoperable	3	....	....	X	
Lighting	2.0	Missing/Inoperable Fixture	4	X	X	X	NLT
Outlets/Switches	4.0	Missing	3	....	....	X	LT
	4.0	Missing/Broken Cover Plates	3	X	....	X	LT
Patio/Porch/ Balcony	2.0	Baluster/Side Railings Damaged	3	....	....	X	
Smoke Detector	0.0	Missing/Inoperable	5	....	....	X	LT
Stairs	2.0	Broken/Damaged/Missing Steps	3	....	....	X	NLT
	2.0	Broken/Missing Hand Railing	3	....	....	X	NLT
Walls	4.0	Bulging/Buckling	4	....	....	X	
	4.0	Damaged	3	X	X	X	
	4.0	Damaged/Deteriorated Trim	1	X	X	X	
	4.0	Peeling/Needs Paint	1	X	X	....	
	4.0	Mold/Mildew/Water Stains/Water Damage	2	X	....	X	
Windows	4.5	Cracked/Broken/Missing Panes	3	X	....	X	NLT
	4.5	Damaged/Missing Screens	2	X	....	....	
	4.5	Damaged Sills/Frames/Lintels/Trim	4	X	X	....	
	4.5	Missing/Deteriorated Caulking/Seals/Glazing Compound	5	X	....	X	
	4.5	Inoperable/Not Lockable	3	X	....	X	NLT
	4.5	Peeling/Needs Paint	1	X	....	....	
	4.5	Security Bars Prevent Egress	5	....	....	X	LT

Note: (1) Nominal item weight assumes that all items for the Units are present. Item weights would be adjusted accordingly when items are not applicable (N/A).

(2) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 15%.

(3) "X" in the level column indicates which levels are applicable.

(4) Only level 3 is applied to H&S deficiencies.

(5) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy).

Appendix 2: Dictionary of Deficiency Definitions

Site Inspectable Items

Items to inspect for ''Site'' are as follows:

- Fencing and Gates
- Grounds
- Mailboxes/Project Signs
- Market Appeal
- Parking Lots/Driveways/Roads
- Play Areas and Equipment
- Refuse Disposal
- Retaining Walls
- Storm Drainage
- Walkways/Steps

Fencing and Gates (Site)

Fence: A structure functioning as a boundary or barrier. An upright structure serving to enclose, divide or protect an area.

Gate: A structured opening in a fence for entrance or exit.

Note: This does not include swimming pool fences or gates. Swimming pool fences and gates are covered under ''Pools and Related Structures (Common Areas).''

This inspectable item can have the following deficiencies:

- Holes/Missing Sections/Damaged/Falling/Leaning—Non-Security/Non-Safety
- Holes/Missing Sections/Damaged/Falling/Leaning—Security/Safety

Holes/Missing Sections/Damaged/Falling/Leaning—Non-security/Non-safety (Fencing and Gates—Site)

Deficiency: A non-security/non-safety (for example, privacy/decorative) fence or gate is rusted, deteriorated, uprooted, missing or contains holes.

Note:

1. Gates for swimming pool fences are covered in another section, ''Pools and Related Structures (Common Areas).''

2. Fences designed for security/safety are addressed under ''Holes/Missing Sections/Damaged/Falling/Leaning—Security/Safety (Fencing and Gates—Sites).''

Level of Deficiency:

Level 1: N/A

Level 2: A non-security/non-safety fence or gate contains holes or deterioration/damage in greater than 25% of a fence.

Level 3: N/A

Comment:

Level 2: If the non-security/non-safety fence poses any danger, note this as a health and safety issue under ''Hazards (Health and Safety).''

Holes/Missing Sections/Damaged/Falling/Leaning—Security/Safety (Fencing and Gates—Site)

Deficiency: A security/safety (i.e., perimeter/security) fence or gate is rusted, deteriorated, uprooted or missing such that it may threaten security, health or safety.

Note:

1. Do not evaluate the fence under this item if the fence or gate is not designed for security/safety, such as keeping intruders or children out. Refer to ''Holes/Missing Sections/Damaged/Falling/Leaning—Non-Security/Non-Safety (Fencing and Gates—Sites).''

2. Security/safety fences include perimeter fences that are designed to keep people in and/or out as well as fences around playgrounds, etc.

3. Fences less than 4 feet in height are to be addressed under non-security fences.

4. Gates for swimming pool fences are covered in another section, ''Pools and Related Structures (Common Areas).''

Level of Deficiency:

Level 1: A security/safety fence or gate contains small holes or related damage as defined above (smaller than 12 inches by 12 inches) in less than 25% of the fence.

Level 2: A security/safety fence or gate contains small holes or related damage as defined above (smaller than 12 inches by 12 inches) in more than 25% of the fence.

Level 3: A security/safety fence or fence section contains large holes or related damage as defined above (greater than 12 inches by 12 inches) or is missing a section.

Note: If the fence can cause injury or allow bodily harm, record it under ''Hazards (Health and Safety).''

Grounds (Site)

The improved land adjacent to or surrounding the housing and related structures. This does not include land not owned or under the control of the housing provider.

This inspectable item can have the following deficiencies:

- Erosion/Rutting Areas
- Overgrown/Penetrating Vegetation
- Ponding/Site Drainage

Erosion/Rutting Areas (Grounds—Site)

Deficiency: Natural processes, weathering, erosion, or gravity, or man-made processes have caused either of these conditions:

—Collection or removal of surface material.

-OR-

—Sunken tracks, ruts, grooves, or depressions.

Note: This does not include erosion/rutting from a defined storm drainage system or in a play area. These are covered in these sections: ''Storm Drainage (Site)'' and ''Play Areas and Equipment (Site).''

Level of Deficiency:

Level 1: N/A

Level 2: Erosion has caused surface material to collect, leading to a degraded surface that would likely cause water to pool in a confined area, especially next to structures, paved areas, or walkways.

-OR-

A rut/groove is 6 to 8 inches wide and 3 to 5 inches deep.

Level 3: Runoff has extensively displaced soil, which has caused visible damage or the potential failure of adjoining structures or systems, such as pipes, pavements, foundations, building, etc.

-OR-

Advanced erosion threatens the safety of pedestrians or makes an area of the grounds unusable.

-OR-

There is a rut larger than 8 inches wide by 5 inches deep.

Overgrown/Penetrating Vegetation (Grounds—Site)

Deficiency: Plant life has spread to unacceptable areas, unintended surfaces, or has grown in areas where it was not intended to grow.

Level of Deficiency:

Level 1: N/A

Level 2: Vegetation is extensive and dense; it is difficult to see broken glass, holes, and other hazards.

-OR-

Vegetation contacts or penetrates an unintended surface, such as buildings, gutters, fences/walls, roofs, HVAC units, etc., but you see no visible damage.

-OR-

Extensive, dense vegetation obstructs the intended path of walkways or roads, but the path is still passable.

Level 3: Plants have visibly damaged a component, area, or system of the property or have made them unusable/impassable.

Ponding/Site Drainage (Grounds—Site)

Deficiency: Water or ice has collected in a depression or on ground where ponding was not intended.

Note:

1. This does not include detention/retention basins or ponding on paved areas, such as parking lots:

—Detention/retention basins are covered in ''Storm Drainage (Site).''

—Ponding on paved areas is covered in ''Parking Lots/Driveways/Roads (Site).''

2. If there has been measurable precipitation (1/10 inch or more) during the previous 48 hours, consider the impact on the extent of the ponding.

3. Determine that ponding has occurred only when there is clear evidence of a persistent or long-standing problem.

Level of Deficiency:

Level 1: N/A

Level 2: An accumulation of water (3 to 5 inches deep) affects the use of at least 100 square feet of the grounds, but the grounds are generally usable.

Level 3: There is an accumulation of more than 5 inches deep over 100 square feet.

-OR-

Accumulation has made a large section of the grounds, more than 20%, unusable for its intended purpose. For example, ponding has made a recreational field unusable.

Mailboxes/Project Signs (Site)

Mailbox is a public container where mail is deposited for distribution and collection. This does not include mailboxes owned and maintained by the U.S. Postal Service, such as the ''Blue Boxes.'' Project signs are boards, posters, or placards displayed in a public place to advertise, impart information, or give directions. This does not include signs owned and maintained by the city.

This inspectable item can have the following deficiencies:

- Mailbox Missing/Damaged
- Signs Damaged

Mailbox Missing/Damaged (Mailboxes/Project Signs—Site)

Deficiency: The U.S. Postal Service resident/unit mailbox is either missing or so damaged that it does not function properly.

Note: Do not inspect commercial deposit boxes, FedEx, UPS, etc., or U.S. Postal Service ''blue boxes.''

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: The U.S. Postal Service resident/unit mailbox cannot be locked.
-OR-
The U.S. Postal Service resident/unit mailbox is missing or so damaged that it does not function properly.

Signs Damaged (Mailboxes/Project Signs—Site)

Deficiency: The project sign is not legible or readable because of deterioration or damage.
Level of Deficiency:
Level 1: The sign is damaged, vandalized, or deteriorated, and cannot be read from a reasonable distance (for example, 20 feet).
Level 2: N/A
Level 3: N/A

Market Appeal (Site)

Evaluate only those areas or structures that are under the control of the housing provider.
This inspectable item can have the following deficiencies:

- Graffiti
- Litter

Graffiti (Market Appeal—Site)

Deficiency: You see crude inscriptions or drawings scratched, painted, or sprayed on a building surface, retaining wall, or fence that the public can see from 30 feet away.
Note: There is a difference between art forms and graffiti. Do not consider full wall murals and other art forms as graffiti.
Level of Deficiency:
Level 1: You see graffiti in 1 place.
Level 2: You see graffiti in 2 to 5 places.
Level 3: You see graffiti in 6 or more places.

Litter (Market Appeal—Site)

Deficiency: There is a disorderly accumulation of objects on the property, especially carelessly discarded trash.
Note: Judge litter as you would judge the condition of a city park in America. Do not include these as litter:
1. Litter left behind in the path of a recent garbage collection.
2. Litter that maintenance personnel are collecting and removing during your inspection.
Level of Deficiency:
Level 1: N/A
Level 2: You see excessive litter on the property.
Level 3: N/A

Parking Lots/Driveways/Roads (Site)

An area for parking motorized vehicles begins at the curbside and includes all parking lots, driveways or roads within the property lines that are under the control of the housing provider.
This inspectable item can have the following deficiencies:

- Cracks/Settlement/Heaving/Loose Materials/Potholes
- Ponding

Cracks/Settlement/Heaving/Loose Materials/Potholes (Parking Lots/Driveways/Roads—Site)

Deficiency: There are visible faults in the pavement: longitudinal, lateral, alligator, etc. The pavement sinks or rises because of the failure of sub-base materials.
Note:
1. Do not include cracks on walkways/steps.
2. For this to be a Level 2 deficiency, more than 10% of the area must be impacted, for example, 100 out of 1,000 square feet. The 10% level does not apply to Level 3 conditions.
3. Relief joints are there by design; do not consider them cracks.
4. Repaired/sealed cracks should not be considered a deficiency.
5. When observing traffic ability, consider the capacity to support people on foot, in wheelchairs, and using walkers or canes, etc., and the potential for problems and hazards.
Level of Deficiency:
Level 1: N/A
Level 2: Damaged pavement as defined above greater than ¾ inch, cracks, settlement, hinging/tilting, loose materials, pot holes, or missing section(s) that affect traffic ability over more than 10% of the property's parking lots/driveways/roads. Note a deficiency if you see cracks on more than 10% of the paved area.
Level 3: Damaged pavement as defined above has made a parking lot/driveway unusable/impassable or creates unsafe conditions for pedestrians and vehicles.
Comment:
Level 2: If the height differential is greater than ¾ inch, consider this a safety hazard. If the condition of the surface could cause tripping or falling, you must manually record this deficiency under ''Hazards (Health and Safety).''

Ponding (Parking Lots/Driveways/Roads—Site)

Deficiency: Water or ice has accumulated in a depression on an otherwise flat plane.
Note:
1. Consider the impact of any measurable precipitation, 1/10 inch or more, during the last 48 hours. Note the deficiency only if there is clear evidence that the ponding is a persistent or long-standing problem.
2. For parking lots/driveways/roads only, note a deficiency if you see ponding on more than 5% of the paved area.
Level of Deficiency:
Level 1: N/A
Level 2: Between 1 and 3 inches of water has accumulated, affecting the use of 5% or more of a parking lot/driveway/road. The parking lot/driveway/road is passable.
Level 3: More than 3 inches of water has accumulated making 5% or more of a parking lot/driveway/road unusable or unsafe.

Play Areas and Equipment (Site)

An outdoor area set aside for recreation or play, especially one containing equipment such as seesaws and swings.
This inspectable item can have the following deficiencies:

- Damaged/Broken Equipment
- Deteriorated Play Area Surface

Damaged/Broken Equipment (Play Areas and Equipment—Site)

Deficiency: Equipment is broken into pieces, shattered, incomplete, or inoperable.
Note: Do not evaluate equipment that the POA states have been withdrawn from service, except when safety is still a concern, such as sharp edges, dangerous leaning, etc. For example, if the POA removed the net and hoop from a basketball backboard and the backboard poses no safety hazards, it is not a deficiency.
Level of Deficiency:
Level 1: You see that some of the equipment, 20% to 50%, does not operate as it should, but poses no safety risk.
Level 2: You see that most of the equipment, more than 50%, does not operate as it should, but poses no safety risk.
Level 3: You see equipment that poses a threat to safety and could cause injury.

Deteriorated Play Area Surface (Play Areas and Equipment—Site)

Deficiency: You see damage to a play area surface caused by cracking, heaving, settling, ponding, potholes, loose materials, erosion, rutting, etc.
Level of Deficiency:
Level 1: N/A
Level 2: 20% to 50% of the total surveyed play area surface shows deterioration.
Level 3: More than 50% of the surveyed play area surface shows deterioration.
Comment:
Level 3: If the play area surface could cause tripping or falling, you must manually record this deficiency under ''Hazards (Health and Safety).''

Refuse Disposal (Site)

Collection areas for trash/garbage common pick-up.

Broken/Damaged Enclosure—Inadequate Outside Storage Space (Refuse Disposal—Site)

Deficiency: The outdoor enclosed area used as a trash/refuse site is:

—Broken or damaged, including its walls.
—OR—
—Too small to properly store refuse until disposal.

Note: This does not include areas that are not designed as trash/refuse enclosures, such as curb pick-up.
Level of Deficiency:
Level 1: N/A
Level 2: A single wall or gate of the enclosure has collapsed or is leaning and is in danger of falling.
—OR—
Trash cannot be stored in the designated area because it is too small to store refuse until disposal.
Level 3: N/A

Retaining Walls (Site)

A wall built to support or prevent the advance of a mass of earth or water.

Damaged/Falling/Leaning (Retaining Walls—Site)

Deficiency: A retaining wall structure is deteriorated, damaged, falling, or leaning.
Level of Deficiency:

Level 1: A retaining wall shows some signs of deterioration, damage, falling or leaning, but it still functions as it should, and it is not a safety risk.

Level 2: N/A

Level 3: A retaining wall is damaged and has failed or is a safety risk.

Storm Drainage (Site)

System used to collect and dispose of surface runoff water through the use of culverts, underground structures, or natural drainage features, e.g., swales, ditches, etc.

Damaged/Obstructed (Storm Drainage—Site)

Deficiency: If the storm drains are structurally unsound/damaged, are blocked/obstructed by accumulated debris, or present other safety hazards.

Level of Deficiency:

Level 1: N/A

Level 2: The system is partially blocked by a large quantity of debris, causing backup into adjacent area(s).

Level 3: The system is structurally unsound/damaged or completely blocked, or a large segment of the system has failed because a large quantity of debris has caused:

—Backups into adjacent area(s).

—OR—

—Runoffs into areas where runoffs are not intended.

Walkways/Steps (Site)

Passages for walking and the structures that allow for changes in vertical orientation.

This inspectable item can have the following deficiencies:

- Broken/Missing Hand Railing
- Cracks/Settlement/Heaving
- Spalling

Broken/Missing Hand Railing (Walkways/Steps—Site)

Deficiency: The handrail is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The handrail for 4 or more stairs is missing, damaged, loose, or otherwise unusable.

Cracks/Settlement/Heaving (Walkways/Steps—Site)

Deficiency:

—Visible faults in the pavement: longitudinal, lateral, alligator, etc.

—OR—

—Pavement that sinks or rises because of the failure of sub-base materials.

Note:

1. Do not include cracks on parking lots/driveways or roads.
2. For this to be a Level 2 deficiency, 5% of the walkways must be impacted, for example, 50 out of 1,000 square feet.
3. Relief joints are there by design; do not consider them cracks.
4. Repaired/sealed cracks should not be considered a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: Damaged, as defined above, is greater than ¾ inch, hinging/tilting, or missing section(s) that affect more than 5% of the property's walkways/steps.

Level 3: N/A

Comment:

Level 2: If the walkways or steps could cause tripping or falling, you must manually record this deficiency under ''Hazards (Health and Safety).''

Spalling (Walkways/Steps—Site)

Deficiency: A concrete or masonry walkway is flaking, chipping, or crumbling, possibly exposing underlying reinforcing material. This is a defect if 5% or more of the property's walkways/steps are affected. For example, 50 square feet out of 1,000 square feet.

Note: When observing traffic ability, consider the capacity to support people on foot, in wheelchairs, and using walkers.

Level of Deficiency:

Level 1: More than 5% of the walkway/steps have small areas of spalling, 4 inches by 4 inches or less.

Level 2: More than 5% of the walkway/steps have large areas of spalling, larger than 4 inches by 4 inches, and this affects traffic ability.

Level 3: N/A

Building Exterior Inspectable Items

Items to inspect for ''Building Exterior'' are as follows:

- Doors
- FHEO/Uniform Federal Accessibility Standards (UFAS)
- Fire Escapes
- Foundations
- Lighting
- Roofs
- Walls
- Windows

Doors (Building Exterior)

Means of access to the interior of a building or structure. Doors provide privacy, control passage, maintain security, provide fire and weather resistance. Includes entry to maintenance areas, boiler and mechanical rooms, electrical vaults, storage areas, etc.

Note: This does not include unit doors.

This inspectable item can have the following deficiencies:

- Damaged Frames/Threshold/Lintels/Trim
- Damaged Hardware/Locks
- Damaged Surface (Holes/Paint/Rust/Glass)
- Damaged/Missing Screen/Storm/Security Door
- Deteriorated/Missing Caulking/Seals
- Missing Door

Damaged Frames/Threshold/Lintels/Trim (Doors—Building Exterior)

Deficiency: You see a frame, header, jamb, threshold, lintel, or trim that is warped, split, cracked, or broken.

Note: If you see damage to a door's hardware (locks, hinges, etc.) record this under ''Damage Hardware/Locks (Doors—Building Exterior).''

Level of Deficiency:

Level 1: N/A

Level 2: At least 1 door is not functioning or cannot be locked because of damage to the frame, header, jamb, threshold, lintel, or trim.

Level 3: At least 1 entry door or fire/emergency door is not functioning or cannot be locked because of damage to the frame, header, jamb, threshold, lintel, or trim.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Damaged Hardware/Locks (Doors—Building Exterior)

Deficiency: The attachments to a door that provide hinging, hanging, opening, closing, or security are damaged or missing. These include locks, panic hardware, overhead door tracks, springs and pulleys, sliding door tracks and hangers, and door closures.

Note:

1. If a door is designed to have locks, the locks should work.
2. If a door is not designed to have locks, do not record a deficiency for not having a lock.

Level of Deficiency:

Level 1: N/A

Level 2: One door does not function as it should or cannot be locked because of damage to the door's hardware.

Level 3: One door's panic hardware does not function as it should.

—OR—

One entry door or fire/emergency door does not function as it should or cannot be locked because of damage to the door's hardware.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Health and Safety: Hazards.''

Damaged Surface (Holes/Paint/Rust/Glass) (Doors—Building Exterior)

Deficiency: Damage includes holes, peeling/cracking/no paint, broken glass, and significant rust. You see damage to the door surface that:

- May affect either the surface protection or the strength of the door.

-OR-

- May compromise building security.

Level of Deficiency:

Level 1: N/A

Level 2: One door has a hole or holes with a diameter ranging from ¼ inch to 1 inch.

Level 3: One door has a hole or holes larger than 1 inch in diameter, significant peeling/cracking/no paint, or rust that affects the integrity of the door surface, or broken/missing glass.

-OR-

One entry door or fire/emergency door has a hole or holes with a diameter ranging from ¼ inch to 1 inch.

Damaged/Missing Screen/Storm/Security Door (Doors—Building Exterior)

Deficiency: You see damage to surfaces, including screens, glass, frames, hardware, and door surfaces.

Level of Deficiency:

Level 1: At least 1 screen door or storm door is damaged or is missing screens or glass, shown by an empty frame or frames.

Level 2: N/A

Level 3: A security door is not functioning or missing. (''Missing'' applies only if a

security door that should be there is not there.)

Deteriorated/Missing Caulking/Seals (Doors—Building Exterior)

Deficiency: Sealant and stripping designed to resist weather or caulking is missing or deteriorated.

Note: This applies only to entry doors that were designed with seals. If a door shows evidence that a seal was never part of its design, do not record a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The seals/caulking is missing on 1 entry door, or they are so damaged that they do not function as they should.

Missing Door (Doors—Building Exterior)

Deficiency: A door is missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A single missing building exterior door.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

FHEO/UFAS (Building Exterior)

This inspectable item can have the following deficiencies:

- Main Entrance Less Than 32″ Wide
- Obstructed or Missing Accessibility Route

Main Entrance Less Than 32″ Wide (FHEO/UFAS—Building Exterior)

Deficiency: Verify that the main entrance for each building inspected is at least 32″ wide, measured from between the face of the door and the opposite door stop.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The distance between the face of the door and the opposite doorstop is not 32'' wide.

Obstructed or Missing Accessibility Route (FHEO/UFAS—Building Exterior)

Deficiency: Verify that there is an accessible route to and from the main ground floor entrance for every building inspected. Accessible routes include level surface to the door, ramps, etc.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: There is not an accessible route.

Fire Escapes (Building Exterior)

All buildings must have acceptable fire exits. This includes both stairway access doors and external exits. These can include external fire escapes, fire towers, operable windows on the lower floors with easy access to the ground or a back door opening onto a porch with a stairway leading to the ground.

This inspectable item can have the following deficiencies:

- Blocked Egress/Ladders
- Visibly Missing Components

Blocked Egress/Ladders (Fire Escapes—Building Exterior)

Deficiency: Any part of the fire escape, including ladders, is blocked, limiting or restricting people from exiting.

Note: This includes fire escapes, fire towers, and windows on the ground floor that would be used in an emergency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Stored items or other barriers restrict or block people from exiting.

Visibly Missing Components (Fire Escapes—Building Exterior)

Deficiency: You see that any of the components that affect the function of the fire escape are missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see that any of the functional components that affect the function of the fire escape, for example, 1 section of a ladder or a railing, is missing.

Foundations (Building Exterior)

Lowest level structural wall or floor responsible for transferring the building's load to the appropriate footings and soil. Materials may include concrete, stone, masonry and wood.

This inspectable item can have the following deficiencies:

- Cracks/Gaps
- Spalling/Exposed Rebar

Cracks/Gaps (Foundations—Building Exterior)

Deficiency: You see a split in the exterior of the lowest structural wall.

Note: Cracks that show evidence of water penetration should be evaluated here.

Level of Deficiency:

Level 1: N/A

Level 2: You see cracks more than ⅛ inch wide by ⅛ inch deep by 6 inches long.

-OR-

You see large pieces, for example, many bricks, that are separated or missing from the wall or floor.

Level 3: You see large cracks or gaps more than ⅜ inch wide by ⅜ inch deep by 6 inches long, a possible sign of a serious structural problem.

-OR-

You see cracks that are the full depth of the wall, providing opportunity for water penetration.

-OR-

You see sections of the wall or floor that are broken apart.

Comment:

Level 3: If you have any doubt about the severity of the problem, request an inspection by a structural engineer.

Spalling/Exposed Rebar (Foundations—Building Exterior)

Deficiency: A concrete or masonry wall is flaking, chipping, or crumbling, possibly exposing underlying reinforcing material (rebar).

Level of Deficiency:

Level 1: N/A

Level 2: You see obvious, large spalled area(s) affecting 10% to 50% of any foundation wall.

Level 3: You see obvious, significant spalled area(s) affecting more than 50% of any foundation wall.

-OR-

You see spalling that exposes any reinforcing material, such as rebar or other.

Comment:

Level 3: If you have any doubt about the severity of the problem, request an inspection by a structural engineer.

Lighting (Building Exterior)

System to provide illumination of building exteriors and surrounding grounds. Includes fixtures, lamps, stanchions, poles, supports, and electrical supply that are associated with the building itself.

Broken Fixtures/Bulbs (Lighting—Building Exterior)

Deficiency: Includes broken fixtures and bulbs. This deficiency covers all or part of the lighting associated with the building, including lighting attached to the building used to light the site. If you see lighting that is not directly attached to a specific building, assign it to the nearest building.

Note: If a damaged fixture or bulb presents a safety hazard, rate it as Level 3, and record it manually as a health and safety concern. This includes broken fixtures and bulbs that could fall on pedestrians or could lead to electrocution.

Level of Deficiency:

Level 1: N/A

Level 2: 20% to 50% of the lighting fixtures and bulbs surveyed are broken or missing, but this does not constitute an obvious safety hazard.

Level 3: More than 50% of the lighting fixtures and bulbs surveyed are broken or missing.

-OR-

The condition constitutes an obvious safety hazard.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Electrical Hazards (Health and Safety).''

Roofs (Building Exterior)

Roof system consists of the structural deck, weathering surface, flashing, parapet, and drainage system. They may be flat or pitched.

This inspectable item can have the following deficiencies:

- Damaged/Clogged Drains
- Damaged Soffits/Fascia
- Damaged Vents
- Damaged/Torn Membrane/Missing Ballast
- Missing/Damaged Components from Downspout/Gutter
- Missing/Damaged Shingles
- Ponding (Roofs)

Damaged/Clogged Drains (Roofs—Building Exterior)

Deficiency: The drainage system does not effectively remove water. Generally, this deficiency applies to flat roofs.

Note:

1. This does not include gutters and downspouts. For these, see ''Missing/

Damaged Components from Downspout/Gutter (Roofs—Building Exterior).''

2. If there has been measurable precipitation (1/10 inch or more) during the previous 48 hours, consider the impact on the extent of the ponding. Determine that ponding has occurred only when there is clear evidence of a persistent or long-standing problem.

Level of Deficiency:

Level 1: N/A

Level 2: You see debris around or in a drain, but no evidence of ponding.

-OR-

The drain is damaged or partially clogged with debris, but the drain system still functions and you see no evidence of ponding.

Level 3: The drain is so damaged or clogged with debris that the drain no longer functions, as shown by ponding.

Comment:

Level 3: If you have any doubt about the severity of the condition, an inspection by a roofing specialist is recommended.

Damaged Soffits/Fascia/Soffit Vents (Roofs—Building Exterior)

Deficiency: You see damage to soffit, fascia, soffit vents, or associated components that may provide opportunity for water penetration or other damage from natural elements.

Level of Deficiency:

Level 1: You see damage to soffits, fascia or soffit vents, but no obvious opportunities for water penetration.

Level 2: N/A

Level 3: Soffits, fascia or soffit vents that should be there are missing or so damaged that water penetration is visibly possible.

Comment:

Level 3: If you have any doubt about the severity of the condition, an inspection by a roofing specialist is recommended.

Damaged Vents (Roofs—Building Exterior)

Deficiency: Damaged vents on or extending through the roof surface or components are damaged or missing. Vents include ridge vents, gable vents, plumbing vents, gas vents, and others.

Note: This does not include exhaust fans on the roof or soffit vents:

- Exhaust fans are covered under ''Roof Exhaust System (Building Systems).''
- Soffit vents are covered under ''Damaged Soffits/Fascia/Soffit Vents (Roofs—Building Exterior).''

Level of Deficiency:

Level 1: The vents are visibly damaged, but do not present an obvious risk to promote further roof damage.

Level 2: N/A

Level 3: Vents are missing or so visibly damaged that further roof damage is possible.

Damaged/Torn Membrane/Missing Ballast (Roofs—Building Exterior)

Deficiency: In the membrane or flashing, you see damage that is a rip or tear, including punctures, holes, cracks, blistering, and separated seams. PVC, rubber, bitumen, and similar materials are all subject to tears and punctures.

Level of Deficiency:

Level 1: N/A

Level 2: Ballast has shifted and no longer functions as it should.

Level 3: You see signs of damage, as defined above, to the membrane that may result in water penetration.

Comment:

Level 3: If the condition warrants further inspection, inspection by a roofing specialist is recommended.

Missing/Damaged Components from Downspout/Gutter (Roofs—Building Exterior)

Deficiency: You see that components of the drainage system, including gutters, leaders, downspouts, splashblocks, and drain openings, are missing or damaged.

Note: This does not include clogged drains. For clogged drains, see ''Damaged/Clogged Drains (Roofs—Building Exterior).''

Level of Deficiency:

Level 1: Splashblocks are missing or damaged.

Level 2: You see that drainage system components are missing or damaged, but there is no visible damage to the roof, structure, exterior wall surface, or interior.

Level 3: You see that drainage system components are missing or damaged, causing visible damage to the roof, structure, exterior wall surface, or interior.

Missing/Damaged Shingles (Roofs—Building Exterior)

Deficiency: Shingles are missing or damaged, including cracking, warping, cupping, and other deterioration.

Note: A square is 100 square feet.

Level of Deficiency:

Level 1: Up to 1 square of surface material or shingles is missing or damaged from roof areas you survey.

Level 2: One to 2 squares of surface material or shingles are missing or damaged from surveyed roof areas.

Level 3: More than 2 squares of shingles are missing or damaged from surveyed roofing areas.

Comment:

Level 3: If you have any doubt about the severity of the condition, an inspection by a roofing specialist is recommended.

Ponding (Roofs—Building Exterior)

Deficiency: You see evidence of areas of standing water, such as roof depression, mold ring, or effervescence water ring.

Note: If there has been measurable precipitation (1/10 inch or more) during the previous 48 hours, consider the impact on the extent of the ponding. Determine that ponding has occurred only when there is clear evidence of a persistent or long-standing problem.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see evidence of standing water on the roof, causing potential or visible damage to roof surface or underlying materials.

Comment:

Level 3: If you have any doubt of the severity of the condition, an inspection by a roofing specialist is recommended.

Walls (Building Exterior)

The exterior enclosure of the building or structure. Materials for construction include concrete, masonry block, brick, stone, wood, glass block. Surface finish materials include metal, wood, vinyl, stucco.

Note: This does not include foundation walls.

This inspectable item can have the following deficiencies:

- Cracks/Gaps
- Damaged Chimneys
- Missing/Damaged Caulking/Mortar
- Missing Pieces/Holes/Spalling
- Stained/Peeling/Needs Paint

Cracks/Gaps (Walls—Building Exterior)

Deficiency: You see a split, separation, or gap in the exterior walls.

Note: If you see both cracks/gaps and missing pieces/holes/spalling, do not record both. If you see both deficiencies, record only 1 of the 2.

Level of Deficiency:

Level 1: N/A

Level 2: You see a crack or gap that is more than ⅛ inch wide by ⅛ inch deep by 6 inches long.

-OR-

You see pieces, for example, many bricks, that are separated from the wall.

Level 3: You see a large crack or gap that is more than ⅜ inch wide or deep and 6 inches long, possibly a sign of a serious structural problem.

-OR-

You see a crack or gap that is the full depth of the wall, providing opportunity for water penetration.

-OR-

You see sections of the wall that are broken apart.

Comment:

Level 3: If you have any doubt of the severity of the condition, request an inspection by a structural engineer.

Damaged Chimneys (Walls—Building Exterior)

Deficiency: The chimney, including the part that extends above the roofline, has separated from the wall or has cracks, spalling, missing pieces or broken sections (including chimney caps).

Level of Deficiency:

Level 1: The chimney cap is either visibly loose or damaged.

Level 2: The surface of the chimney shows surface damage on more than 1 piece of wall, for example, a few bricks or a section of siding.

-OR-

The surface of the chimney has holes that affect an area larger than 4 inches by 4 inches.

Level 3: Part or all of the chimney has visibly separated from the adjacent wall.

-OR-

There are cracked or fallen pieces or sections.

-OR-

There is a risk that falling pieces could create a safety hazard.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Missing/Damaged Caulking/Mortar (Walls—Building Exterior)

Deficiency: Caulking designed to resist weather or mortar is missing or deteriorated.

Note: This does not include caulking relative to doors and windows; they are covered in other areas. Address all other caulking here.

Level of Deficiency:

Level 1: Mortar is missing around a single masonry unit.

-OR-

Deteriorated caulk is confined to less than 12 inches.

Level 2: Mortar is missing around more than 1 contiguous masonry unit.

-OR-

You see deteriorated caulking in an area longer than 12 inches.

Level 3: N/A

Missing Pieces/Holes/Spalling (Walls—Building Exterior)

Deficiency: You see deterioration of the exterior wall surface, including missing pieces, holes, or spalling. This may also be attributed to:

—Materials that are rotting.

-OR-

—A concrete, stucco, or masonry wall that is flaking, chipping or crumbling.

Level of Deficiency:

Level 1: N/A

Level 2: You see that there is a missing piece, for example, a single brick or section of siding, or a hole larger than ½; inch in diameter.

-OR-

You see deterioration that affects an area up to 8½; inches by 11 inches.

Level 3: You see deterioration that exposes any reinforcing material (rebar).

-OR-

You see more than 1 missing piece, for example, a few bricks or a section of siding, or holes that affect an area larger than 8½; inches by 11 inches.

-OR-

You see a hole of any size that completely penetrates the exterior wall.

Comment:

Level 3: If you have any doubt about the severity of the condition, request an inspection by a structural engineer.

Stained/Peeling/Needs Paint (Walls—Building Exterior)

Deficiency: Paint is cracking, flaking, or otherwise deteriorated. Water damage or related problems have stained the paint.

Note: This does not include walls that are not intended to have paint, such as most brick walls, etc.

Level of Deficiency:

Level 1: You observe that less than 50% of a single building exterior wall is affected.

Level 2: You observe that more than 50% of a single building exterior wall is affected.

Level 3: N/A

Windows (Building Exterior)

Window systems provide light, security, and exclusion of exterior noise, dust, heat, and cold. Frame materials include wood, aluminum, vinyl, etc.

This inspectable item can have the following deficiencies:

- Cracked/Broken/Missing Panes
- Damaged/Missing Screens
- Damaged Sills/Frames/Lintels/Trim
- Missing/Deteriorated Caulking/Seals/Glazing Compound
- Peeling/Needs Paint

Cracked/Broken/Missing Panes (Windows—Building Exterior)

Deficiency: A glass pane is broken, missing, or cracked.

Level of Deficiency:

Level 1: A glass pane is cracked, but you see no sharp edges.

Level 2: N/A

Level 3: A glass pane is missing or broken.

Damaged/Missing Screens (Windows—Building Exterior)

Deficiency: Screens are punctured, torn, otherwise damaged, or missing.

Level of Deficiency:

Level 1: Three or more screens in 1 building are punctured, torn, otherwise damaged, or missing.

Level 2: N/A

Level 3: N/A

Damaged Sills/Frames/Lintels/Trim (Windows—Building Exterior)

Deficiency: Window sills, frames, sash lintels, or trim are damaged by decay, rust, rot, corrosion, or other deterioration.

Note: Damage does not include scratches and cosmetic deficiencies.

Level of Deficiency:

Level 1: You see damage to sills, frames, lintels, or trim, but nothing is missing. The inside of the surrounding wall is not exposed. You see no impact on either the functioning of the window or weather tightness.

Level 2: Sills, frames, lintels, or trim are missing or damaged, exposing the inside of the surrounding walls and compromising its weather tightness.

Level 3: N/A

Missing/Deteriorated Caulking/Seals/Glazing Compound (Windows—Building Exterior)

Deficiency: The caulk, seals or glazing compound that resists weather is missing or deteriorated.

Note:

1. This also includes Thermopane or insulated windows that have failed.

2. Caulk and seals are considered to be deteriorated when 2 or more seals for any window have lost their elasticity. (If the seals crumble and flake when touched, they have lost their elasticity.)

Level of Deficiency:

Level 1: Most of the window shows missing or deteriorated caulk, seals and/or glazing compound, but there is no evidence of damage to the window or surrounding structure.

Level 2: N/A

Level 3: There are missing or deteriorated caulk, seals and/or glazing compound with evidence of leaks or damage to the window or surrounding structure.

Peeling/Needs Paint (Windows—Building Exterior)

Deficiency:

—Paint covering the window assembly or trim is cracking, flaking, or otherwise failing.

-OR-

—The window assembly or trim is not painted or is exposed to the elements.

Note: This does not include windows that were not intended to be painted.

Level of Deficiency:

Level 1: You see peeling paint or a window that needs paint.

Level 2: N/A

Level 3: N/A

Building Systems Inspectable Items

Items to inspect for ''Building Systems'' are as follows:

- Domestic Water
- Electrical System
- Elevators
- Emergency Power
- Fire Protection
- HVAC
- Roof Exhaust System
- Sanitary System

Domestic Water (Building Systems)

Portion of the building system that provides potable water conditioning, heating, and distribution, taking its source from outside the building and terminating in domestic plumbing fixtures. The system typically consists of water conditioners (filters and softeners), water heaters, transfer and circulating pumps, strainers, connecting piping, fittings, valves and supports.

Note: This does not include portion of water supply that connects to the heating and cooling system. Also, the delivery points of the system such as sinks and faucets in units or common areas.

This inspectable item can have the following deficiencies:

- General Rust/Corrosion on Heater Chimney
- Leaking Central Water Supply
- Misaligned/Damaged Ventilation System
- Missing Pressure Relief Valve
- Water Supply Inoperable

General Rust/Corrosion on Heater Chimney (Domestic Water—Building Systems)

Deficiency: The water heater chimney shows evidence of flaking, discoloration, pitting, or crevices.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The water heater chimney shows evidence of flaking, discoloration, pitting, or crevices that may create holes that could allow toxic gases to leak from the chimney.

Leaking Central Water Supply (Domestic Water—Building Systems)

Deficiency: You see water leaking from any water system component, including valve flanges, stems, bodies, hose bibs, or any domestic water tank or its pipe or pipe connections.

Note:

1. This includes both hot and cold water systems, but does not include fixtures. Address fixtures in dwelling units or common areas.

2. Some pumps and valves are designed to leak as a normal function, particularly in fire pumps, water pressure pumps, and large

circulating pumps, and should be considered accordingly.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see that water is leaking.

Comment:
Level 3: If leaking water is a health and safety concern (i.e., is leaking on or near electrical equipment), you must record it manually under ''Electrical Hazards (Health and Safety).''

Misaligned Chimney/Ventilation System (Domestic Water—Building Systems)

Deficiency: The ventilation system on a gas-fired or oil-fired water heater is misaligned.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see any misalignment that may cause improper or dangerous venting of exhaust gases.

Missing Pressure Relief Valve (Domestic Water—Building Systems)

Deficiency: The pressure relief valve on the central hot water heating system is missing or does not extend to the floor.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: There is no pressure relief valve.
-OR-
The pressure relief valve does not extend to the floor.

Water Supply Inoperable (Domestic Water—Building Systems)

Deficiency: Water is not available.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: There is no running water in any area of the building.

Electrical System (Building Systems)

Portion of the building system that safely provides electrical power throughout the building. Including equipment that provides control, protection, metering, and service.

Note: This does not include transformers or metering that belongs to the providing utility; equipment that is part of any emergency power generating system; or terminal equipment such as receptacles, switches, or panel boards that are located in the units or common areas.

This inspectable item can have the following deficiencies:

- Blocked Access/Improper Storage
- Burnt Breakers
- Evidence of Leaks/Corrosion
- Frayed Wiring
- Missing Breakers/Fuses
- Missing Covers

Blocked Access/Improper Storage (Electrical System—Building Systems)

Deficiency: A fixed obstruction or item of sufficient size and weight that can delay or prevent access to any panel board or main power switch in an emergency.

Note: If the panel board or main power switch is locked but authorized personnel can quickly gain access, do not record it as a deficiency.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: One or more fixed items or items of sufficient size and weight impede access to the building system's electrical panel during an emergency.

Comment:
Level 3: If the condition is a health and safety concern, you must record it manually under ''Flammable Materials (Health and Safety).''

Burnt Breakers (Electrical System—Building Systems)

Deficiency: Breakers have carbon on the plastic body, or the plastic body is melted and scarred.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see any carbon residue, melted breakers, or arcing scars.

Evidence of Leaks/Corrosion (Electrical System—Building Systems)

Deficiency: You see liquid stains, rust marks, or other signs of corrosion on electrical enclosures or hardware.

Note: Do not consider surface rust a deficiency if it does not affect the condition of the electrical enclosure.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: Any corrosion that affects the condition of the components that carry current.
-OR-
Any stains or rust on the interior of electrical enclosures.
-OR-
Any evidence of water leaks in the enclosure or hardware.

Frayed Wiring (Electrical System—Building Systems)

Deficiency: You see nicks, abrasions, or fraying of the insulation that expose wires that conduct current.

Note: Do not consider this a deficiency for wires not intended to be insulated, such as grounding wires.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see any nicks, abrasions, or fraying of the insulation that expose any conducting wire.

Comment:
Level 3: If the condition is a health and safety concern, you must record it manually under ''Electrical Hazards (Health and Safety).''

Missing Breakers/Fuses (Electrical System—Building Systems)

Deficiency: In a panel board, main panel board, or other electrical box containing circuit breakers, you see an open circuit breaker position that is not appropriately blanked off.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see an open breaker port.

Missing Covers (Electrical System—Building Systems)

Deficiency: The cover is missing from any electrical device box, panel box, switch gear box, or control panel with exposed electrical connections.

Note: If the accompanying POA identifies abandoned wiring: capped wires do not pose a risk, therefore, do not record this as a deficiency.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: A cover is missing, which results in exposed visible electrical connections.

Elevators (Building Systems)

Vertical conveyance system for moving personnel, equipment, materials, household goods, etc.

Inoperable Elevators (Elevators—Building Systems)

Deficiency:
- The elevator will not ascend or descend.
-OR-
- The elevator door will not open or close.
-OR-
- The elevator door opens when the cab is not there.

Note: Some elevators are designed/programmed for special applications, for example, stopping at every floor. For these special cases, the elevator is serving its designed purpose and is therefore not deficient.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The elevator does not function at all.
-OR-
The elevator doors open when the cab is not there.

Emergency Power (Building Systems)

Standby/backup equipment intended to supply illumination or power or both, (battery or generator set) during utility outage.

This inspectable item can have the following deficiencies:

- Auxiliary Lighting Inoperable
- Run-Up Records/Documentation Not Available

Auxiliary Lighting Inoperable (Emergency Power—Building Systems)

Deficiency: Emergency lighting that provides illumination during power outages does not function as it should.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: Auxiliary lighting does not function.

Run-Up Records/Documentation Not Available (Emergency Power—Building Systems)

Deficiency: Records are not properly maintained or available.

Level of Deficiency:
Level 1: N/A
Level 2: Current records, from the last 12 months, are lost, but older records are properly maintained and available.

Level 3: No records are available.

Fire Protection (Building Systems)

Building System designed to minimize the effects of a fire. May include the following: fire walls and doors, portable fire extinguishers, and permanent sprinkler systems.

Note: This does not include fire detection, alarm, and control devices.

This inspectable item can have the following deficiencies:

- Missing Sprinkler Head
- Missing/Damaged/Expired Extinguishers

Missing Sprinkler Head (Fire Protection—Building Systems)

Deficiency: You see that a sprinkler head, or its components, connected to the central fire protection system is either missing, visibly disabled, painted over, blocked, or capped.

Note: Components include test plugs, drains, and test fittings.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Any sprinkler head is missing, visibly disabled, painted over, blocked, or capped.

Missing/Damaged/Expired Extinguishers (Fire Protection—Building Systems)

Deficiency: A portable fire extinguisher is not where it should be, is damaged, or the extinguisher certification has expired.

Note:

1. This includes missing/damaged fire hoses where there are fire cabinets.

2. For buildings with multiple fire control systems, standpipes, sprinklers, etc., 5% or less of the extinguishers for a given building may be missing, damaged, and/or expired. In such cases do not record as a deficiency.

3. If the inspection tag is missing during the REAC inspection, the accompanying POA may produce proof that the fire extinguisher certification is current. If you see such proof, do not record a deficiency for a missing tag.

Level of Deficiency:

Level 1: For a building with only 1 fire control system, 5% or less of the fire extinguishers are missing, damaged, or expired.

Level 2: For all buildings, 5% to 10% of the fire extinguishers are missing, damaged, or expired.

Level 3: For all buildings, more than 10% of the fire extinguishers are missing, damaged, or expired.

-OR-

There is not an operable/non-expired fire extinguisher on each floor.

HVAC (Building Systems)

Portion of the building system that provides the ability to heat or cool the air within the building. Includes equipment such as boilers, burners, furnaces, fuel supply, hot water and steam distribution, centralized air conditioning systems, and associated piping, filters, and equipment. Also includes air handling equipment and associated ventilation ducting.

This inspectable item can have the following deficiencies:

- Boiler/Pump/Cooling System Leaks
- Fuel Supply Leaks
- Misaligned Chimney/Ventilation System
- General Rust/Corrosion

Boiler/Pump/Cooling System Leaks (HVAC—Building Systems)

Deficiency: Coolant, water or steam is escaping from unit casing and/or pump packing/system piping.

Note:

1. This does not include fuel supply leaks. See ''Fuel Supply Leaks (HVAC—Building Systems).''

2. Do not include steam escaping from pressure relief valves.

3. If water containment and curb is provided, do not record as deficiency if there is standing water.

4. Condensation or sweating is not to be confused with leaking.

Level of Deficiency:

Level 1: Coolant, water, or steam is escaping from unit casing and/or pump packing/system piping.

Level 2: N/A

Level 3: Coolant, water, or steam is leaking from unit casing and/or pump packing/system piping to the point that the system or pumps should be shut down.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Fuel Supply Leaks (HVAC—Building Systems)

Deficiency: There is evidence that fuel is escaping from a fuel storage tank or fuel line.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Any amount of fuel is leaking from the supply tank or piping.

General Rust/Corrosion (HVAC—Building Systems)

Deficiency: The equipment or associated piping and ducting shows evidence of flaking, discoloration, pitting, or crevices.

Level of Deficiency:

Level 1: N/A

Level 2: You see significant formations of metal oxides, significant flaking, discoloration, or the development of a noticeable pit or crevice.

Level 3: The equipment or piping does not function because of this condition.

Comment:

Level 3: If the condition is a health and safety concern, you must record it under ''Hazards (Health and Safety).''

Misaligned Chimney/Ventilation System (HVAC—Building Systems)

Deficiency: The exhaust system on a gas fired, oil fired, or coal unit is misaligned.

Level of Deficiency:

[Level 1: N/A

Level 2: N/A

Level 3: You see a misalignment of an exhaust system on a gas fired, oil fired or coal unit that causes improper or dangerous venting of gases.

Roof Exhaust System (Building Systems)

The system used to primarily exhaust stale air from the building. Primarily from the kitchen and bathroom areas.

Note: This does not include elements related to the HVAC system.

Roof Exhaust Fans Inoperable (Roof Exhaust System—Building Systems)

Deficiency: The ventilation system/roof exhaust fans to exhaust air from building areas, such as kitchen, bathroom, etc., does not function.

Note:

1. The inspector shall determine if the fans are event activated, for example, fire, timer, etc. If so, there is no deficiency.

2. ''Missing'' only refers to the case where there were fans to begin with. If a fan was not included in the design, do not record a deficiency for not having one.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The roof exhaust fan unit does not function, is damaged to the point of being inoperable, or is missing.

Sanitary System (Building Systems)

Portion of the building system that provides for the disposal of waste products with discharge to the local sewage system. Can include sources such as domestic plumbing fixtures, floor drains, and other area drains. Consists of floor drains and traps, collection sumps, sewage ejectors, sewage pumps, collection piping, fittings, valves and supports.

Note: This does not include site storm drainage. Refer to ''Storm Drainage (Site).''

This inspectable item can have the following deficiencies:

- Broken/Leaking/Clogged Pipes or Drains (Sanitary System)
- Missing Drain/Cleanout/Manhole Covers

Broken/Leaking/Clogged Pipes or Drains (Sanitary System—Building Systems)

Deficiency: You see that a drain is clogged or that components of the sanitary system are leaking.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see active leaks in or around the system components.

-OR-

You see evidence of standing water, puddles, or ponding, a sign of leaks or clogged drains.

Missing Drain/Cleanout/Manhole Covers (Sanitary System—Building Systems)

Deficiency: You see that a protective cover is missing.

Note: This also includes covers you see while walking the site.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A protective cover is missing.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Air Quality (Health and Safety).''

Common Areas Inspectable Items

The locations of items to inspect for ''Common Areas'' are as follows:

- Basement/Garage/Carport.

—Basement: the lowest habitable story of a building, usually below ground level.

—Garage: a building or wing of a building in which to park a car.
—Carport: a roof projecting from the side of a building or free standing, used to shelter an automobile.
- Closet/Utility/Mechanical—an enclosed room or closet housing machines and/or equipment that service the building.
- Community Room—meeting place used by members of a community for social, cultural, or recreational purposes.
- Day Care—place that provides daytime supervision, training, and medical services for preschool children or for the elderly.
- Halls/Corridors/Stairs—passageway in a building, which organizes its rooms, apartments and staircases.
- Kitchen—a place where food is cooked or prepared; the facilities and equipment used in preparing and serving food.
- Laundry Room—place where soiled clothes and linens are washed and/or dried.
- Lobby—a foyer, hall, or waiting room at or near the entrance of a building.
- Office—a place in which business, professional, or clerical activities are conducted.
- Other community spaces.
- Patio/Porch/Balcony—covered entrance to a building, usually with a separate roof or a recreation area that adjoins common areas.
- Pools and Related Structures—swimming pools and related structures including fencing, etc.
- Restrooms/Pool Structures—a room equipped with a water closet or toilet, tub and/or shower, sink, cabinet(s) and/or closet; this includes locker rooms or bathhouses associated with swimming pools.
- Storage—a room in which items are kept for future use.
- Trash Collection Areas—collection areas for trash/garbage common pick-up.

The items within locations to be inspected for ''Common Areas'' are listed below.

Baluster/Side Railings—Damaged (Common Areas)

Deficiency: The baluster or side railing on the exterior improvement is loose, damaged or missing, limiting the safe use of this area.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The baluster or side rails enclosing the area are loose, damaged, or missing, limiting the safe use of this area.

Cabinets—Missing/Damaged (Common Areas)

Deficiency: Cabinets are missing or the laminate is separating. This includes cases, boxes, or pieces of furniture with drawers, shelves, or doors, primarily used for storage, mounted on walls or floors.

Level of Deficiency:

Level 1: N/A

Level 2: You see that 10% to 50% of the cabinets, doors, or shelves are missing or the laminate is separating.

Level 3: You see that more than 50% of the cabinets, doors, or shelves are missing or the laminate is separating.

Call-for-Aid—Inoperable (Common Areas)

System to summon help. May be visual, audible, or both. May be activated manually or automatically when pre-programmed conditions are met.

Deficiency: The system does not function as it should.

Note: Inspector should verify that the Call-for-Aid only alerts local entities (on-site) prior to testing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The system does not function as it should.

Ceiling (Common Areas)

The visible overhead structure lining the inside of a room or area.

This inspectable item can have the following deficiencies:
- Bulging/Buckling
- Holes/Missing Tiles/Panels/Cracks
- Mold/Mildew/Water Stains/Water Damage
- Peeling/Needs Paint

Bulging/Buckling (Ceiling—Common Areas)

Deficiency: A ceiling is bowed, deflected, sagging, or is no longer aligned horizontally to the extent that ceiling failure is possible.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a lack of horizontal alignment.

Comment:

Level 3: If you as an inspector have concerns about the possibility of failure, inform the property representative that an inspection by a professional engineer is suggested.

Holes/Missing Tiles/Panels/Cracks (Ceiling—Common Areas)

Deficiency:

—The ceiling surface has punctures that may or may not penetrate completely.

-OR-

—Panels or tiles are missing or damaged.

Level of Deficiency:

Level 1: You see small holes that are no larger than a sheet of paper, 8½ inches by 11 inches.

-OR-

No hole or crack penetrates the area above.

-OR-

You see that no more than 3 tiles or panels are missing.

-OR-

You see a crack more than ⅛ inch wide and 11 inches long.

Level 2: You see a hole that is larger than a sheet of paper, 8½ inches by 11 inches, but it does not penetrate the area above. You cannot see through it.

-OR-

You see that more than 3 tiles or panels are missing.

Level 3: You see a hole or crack that penetrates the area above. You can see through it.

Comments:

Level 3: If a hole or crack is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

If you as an inspector have concerns about the possibility of failure, inform the property representative that an inspection by a professional engineer is suggested.

Mold/Mildew/Water Stains/Water Damage (Ceiling—Common Areas)

Deficiency: You see mold or mildew that may have been caused by saturation or surface failure, or evidence of water infiltration or other moisture producing conditions.

Level of Deficiency:

Level 1: On 1 ceiling, you see evidence of mold or mildew, such as a darkened area, over a large area (more than 1 square foot but less than 4 square feet). You may or may not see water.

Level 2: N/A

Level 3: On 1 ceiling, you estimate that a very large area (more than 1 square foot) of its surface, has been substantially saturated or damaged by mold or mildew. The ceiling surface may have failed.

Peeling/Needs Paint (Ceiling—Common Areas)

Deficiency: You see paint that is peeling, cracking, flaking or otherwise deteriorated on ceilings in common areas.

Level of Deficiency:

Level 1: You see paint that is peeling, cracking, flaking or otherwise deteriorated on 1 to 4 ceilings in common areas.

Level 2: You see more than 4 ceilings in common areas that have paint that is peeling, cracking, flaking or otherwise deteriorated, or need paint.

Level 3: N/A

Chutes Damaged/Missing Components (Common Areas)

Deficiency: The structure that directs garbage into the appropriate storage container is missing or damaged. This includes the chute, chute door, and other components.

Note: Do not evaluate the door that leads to the trash room.

Level of Deficiency:

Level 1: N/A

Level 2: Garbage has backed up into chutes, because the collection structure is missing or broken. Compactors or components, chute, chute door, and other components, have failed.

Level 3: N/A

Countertops—Missing/Damaged (Common Areas)

Deficiency: A flat work surface in a kitchen often integral to lower cabinet space is missing or deteriorated.

Level of Deficiency:

Level 1: N/A

Level 2: 20% or more of the countertop working surface is missing, deteriorated, or damaged below the laminate and is not a sanitary surface on which to prepare food.

Level 3: N/A

Dishwasher/Garbage Disposal—Inoperable (Common Areas)

Deficiency: A dishwasher or garbage disposal, if provided, does not function.

Level of Deficiency:

Level 1: N/A

Level 2: The dishwasher or garbage disposal does not function.

Level 3: N/A

Doors (Common Areas)

Means of access to the interior of a unit. Doors provide privacy and security, control passage, provide fire and weather resistance.

This inspectable item can have the following deficiencies:

- Damaged Frames/Threshold/Lintels/Trim
- Damaged Hardware/Locks
- Damaged/Missing Screen/Storm/Security Door
- Damaged Surface—(Holes/Paint/Rust/Glass)
- Deteriorated/Missing Seals (Entry Only)
- Missing Door

Damaged Frames/Threshold/Lintels/Trim (Doors—Common Areas)

Deficiency: You see a frame, header, jamb, threshold, lintel, or trim that is warped, split, cracked, or broken.

Note: If you see damage to a door's hardware, (locks, hinges, etc.) record this under ''Damage Hardware/Locks (Doors—Common Areas).''

Level of Deficiency:

Level 1: N/A

Level 2: At least 1 door is not functioning or cannot be locked because of damage to the frame, header, jamb, threshold, lintel, or trim.

Level 3: At least 1 restroom door, entry door, or fire is not functioning or cannot be locked because of damage to the frame, header, jamb, threshold, lintel, or trim.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Damaged Hardware/Locks (Doors—Common Areas)

Deficiency: The attachments to a door that provide hinging, hanging, opening, closing, or security are damaged or missing. These include locks, panic hardware, overhead door tracks, springs and pulleys, sliding door tracks and hangers, and door closures.

Note:

1. If a door is designed to have a lock, the lock should work. If a door is designed without locks, do not record it as a deficiency.

2. If a lock has been removed from an interior door, do not record this as a deficiency.

3. 504 units have had locks removed. Before you start the inspection, you should be given a list of units relative to the UFAS. Do not record these missing locks as deficiencies.

Level of Deficiency:

Level 1: A closet door does not function as it should because of damage to the door's hardware.

-OR-

A closet door that requires locking cannot be locked because of damage to the door's hardware.

Level 2: A door does not function as it should because of damage to the door's hardware.

-OR-

A door that requires locking cannot be locked because of damage to the door's hardware.

Level 3: A restroom door, entry door, or fire door does not function as it should because of damage to the door's hardware.

-OR-

A restroom door, entry door, or fire door that requires locking cannot be locked because of damage to the door's hardware.

Damaged/Missing Screen/Storm/Security Door (Doors—Common Areas)

Deficiency: Visible damage to surfaces including screens, glass, frames, hardware, and door surface.

Level of Deficiency:

Level 1: One or more screen/storm doors has damage or door is missing screens/glass as evidenced by empty frame.

Level 2: N/A

Level 3: A single security door is inoperable or missing. (Missing only applies to those situations where a security door is supposed to be present but is observed not to be there.)

Damaged Surface (Holes/Paint/Rust/Glass) (Doors—Common Areas)

Deficiency: This includes holes, peeling/cracking/no paint, broken glass, and significant rust. You see damage to the door surface that:

—May affect either the surface protection or the strength of the door.

-OR-

—May compromise building security.

Note: If the door is a restroom, fire door, or entry door, this is a Level 3 deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: One door has a hole or holes with a diameter ranging from ¼ inch to 1 inch.

Level 3: One door has a hole or holes larger than 1 inch in diameter, significant peeling/cracking/no paint, rust that affects the integrity of the door surface, or broken/missing glass.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Deteriorated/Missing Seals (Entry Only) (Doors—Common Areas)

Deficiency: The seals and stripping around the entry door(s) to resist weather and fire are damaged or missing.

Note: This defect applies only to entry doors that were designed with seals. If a door shows evidence that a seal was never part of its design, do not record it as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The seals are missing on 1 entry door, or they are so damaged that they do not function as they should.

Missing Door (Doors—Common Areas)

Deficiency: A door is missing.

Note: If a restroom door, entry door, or fire door, record this as a Level 3 deficiency.

Level of Deficiency:

Level 1: A door is missing, but it is not a restroom door, entry door, or fire door.

Level 2: Two doors or up to 50% of the doors are missing, but they are not restroom doors, entry doors, or fire doors, and the condition presents no hazard.

Level 3: A restroom door, entry door, or fire door is missing.

-OR-

You estimate that more than 50% of the doors are missing.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Dryer Vent—Missing/Damaged/Inoperable (Common Areas)

Deficiency: There is no adequate way to vent heat and lint to the outside.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The dryer vent is missing or you see that it is not functioning because it is blocked. Dryer exhaust is not effectively vented to the outside.

Electrical (Common Areas)

Portion of the common area that safely provides electrical power throughout the building. Including equipment that provides control, protection, metering, and service.

This inspectable item can have the following deficiencies:

- Blocked Access to Electrical Panel
- Burnt Breakers
- Evidence of Leaks/Corrosion
- Frayed Wiring
- Missing Breakers
- Missing Covers

Blocked Access to Electrical Panel (Electrical—Common Areas)

Deficiency: A fixed obstruction or item of sufficient size and weight can delay or prevent access to any panel board switch in an emergency.

Note: If you see an item that is easy to remove, like a picture, do not note this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: One or more fixed items or items of sufficient size and weight can impede access to the unit's electrical panel during an emergency.

Burnt Breakers (Electrical—Common Areas)

Deficiency: Breakers have carbon on the plastic body, or the plastic body is melted and scarred.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any carbon residue, melted breakers, or arcing scars.

Evidence of Leaks/Corrosion (Electrical—Common Areas)

Deficiency: You see liquid stains, rust marks, or other signs of corrosion on electrical enclosures or hardware.

Note: Do not consider surface rust a deficiency if it does not affect the condition of the electrical enclosure.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Any corrosion that affects the condition of the components that carry current.

-OR-

Any stains or rust on the interior of electrical enclosures.

-OR-

Any evidence of water leaks in the enclosure or hardware.

Frayed Wiring (Electrical—Common Areas)

Deficiency: You see nicks, abrasions, or fraying of the insulation that expose wires that conduct current.

Note: Do not consider this a deficiency for wires not intended to be insulated, such as grounding wires.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any nicks, abrasions, or fraying of the insulation that expose any conducting wire.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Electrical Hazards (Health and Safety).''

Missing Breakers (Electrical—Common Areas)

Deficiency: In a panel board, main panel board, or other electrical box that contains circuit breakers/fuses, you see an open circuit breaker position that is not appropriately blanked-off.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see an open breaker port.

Missing Covers (Electrical—Common Areas)

Deficiency: The cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., with exposed electrical connections.

Note: If an accompanying POA has identified abandoned wiring, capped wires do not pose a risk. Do not record this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A cover is missing, and you see exposed electrical connections.

FHEO/UFAS (Common Areas)

This inspectable item can have the following deficiencies:

- Multi-Story Building Hallways/Common Areas Less Than 32'' Wide
- Routes Obstructed or Inaccessible to Wheelchair

Multi-Story Building Hallways/Common Areas Less Than 36'' Wide (FHEO/UFAS—Common Areas)

Deficiency: For multi-story buildings that are inspected, verify that the interior hallways to the inspected units and common areas are at least 36'' wide.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The interior hallways are less than 36'' wide.

Routes Obstructed or Inaccessible to Wheelchair (FHEO/UFAS—Common Areas)

Deficiency: Verify that at least 1 route to all outside common areas is accessible to wheelchairs (i.e., there are curb cuts, ramps, and sufficient (36'') width).

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The common areas are either obstructed or are not accessible by wheelchairs.

Floors (Common Areas)

The visible horizontal surface system within a room or area underfoot; the horizontal division between 2 stories of a structure.

This inspectable item can have the following deficiencies:

- Bulging/Buckling
- Hard Floor Covering Missing/Damaged Flooring/Tiles
- Mold/Mildew/Water Stains/Water Damage
- Peeling/Needs Paint
- Rot/Deteriorated Subfloor
- Soft Floor Covering Damaged

Bulging/Buckling (Floors—Common Areas)

Deficiency: The floor is bowed, deflected, sagging, or is no longer aligned horizontally.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a problem with alignment.

Comment:

Level 3: If you have any doubt about the severity of the condition, request an inspection by a structural engineer.

Hard Floor Covering Missing/Damaged Flooring/Tiles (Floors—Common Areas)

Deficiency: You see that hard flooring, terrazo, hardwood, ceramic tile, sheet vinyl, vinyl tiles, or other similar flooring material, is missing a section(s), is damaged, or presents a tripping or cutting hazard, associated with but not limited to, holes or delamination.

Level of Deficiency:

Level 1: For any single floor surface, you see deficiencies in areas of the floor surface. You estimate that 5% to 10% of the floor is affected, and there are no safety problems.

Level 2: You estimate that 10% to 50% of any single floor surface is affected, but there are no safety problems.

Level 3: You estimate that more than 50% of any single floor surface is affected by Level 1 deficiencies.

-OR-

The condition causes a safety problem.

Mold/Mildew/Water Stains/Water Damage (Floors—Common Areas)

Deficiency: You see mold or mildew that may have been caused by saturation or surface failure or evidence of water infiltration or other moisture producing conditions.

Level of Deficiency:

Level 1: N/A

Level 2: On 1 floor, you see evidence of mold or mildew, such as a darkened area, over a large area (4 square inches to 1 square foot). You may or may not see water.

Level 3: On 1 floor, you estimate that a very large area (more than 1 square foot) of its surface, has been substantially saturated or damaged by mold, or mildew. The floor surface may have failed.

Peeling/Needs Paint (Floors—Common Areas)

Deficiency: For floors that are painted, you see paint that is peeling, cracking, flaking, or otherwise deteriorated.

Level of Deficiency:

Level 1: The area affected is more than 1 square foot, but less than 4 square feet.

Level 2: The area affected is more than 4 square feet.

Level 3: N/A

Rot/Deteriorated Subfloor (Floors—Common Areas)

Deficiency: The subfloor has decayed or is decaying.

Note:

1. If there is any doubt, apply weight to detect noticeable deflection.

2. This type of defect typically occurs in kitchens and bathrooms.

Level of Deficiency:

Level 1: N/A

Level 2: Evidence of small areas of rot, 1 to 4 square feet.

Level 3: Evidence of large areas of rot, more than 4 square feet.

Comment:

Level 3: If you as an inspector have concerns about health and safety, inform the property representative that an inspection by a professional engineer is suggested.

Soft Floor Covering Missing/Damaged (Floors—Common Areas)

Deficiency: You see damaged and/or missing soft floor covering.

Level of Deficiency:

Level 1: You estimate that 5% to 10% of any single floor covering has stains, surface burns, shallow cuts, small holes, tears, loose areas, or exposed seams. The covering is fully functional, and there is no safety hazard.

Level 2: You estimate that 10% to 50% of any single floor covering has stains, surface burns, shallow cuts, small holes, tears, loose areas, or exposed seams. The covering is fully functional, and there is no safety hazard.

Level 3: You estimate that more than 50% of any single floor covering is damaged.

-OR-

Damage to the soft floor covering exposes the underlying material.

Comment:

Level 3: If this condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

GFI—Inoperable (Common Areas)

Deficiency: The GFI does not function.

Note: To determine whether the GFI is functioning, you must press the self-test button in the GFI unit.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The GFI does not function.

Comment:

Level 3: If this condition is a health and safety concern, you must record it under ''Electrical Hazards (Health and Safety).''

Graffiti (Common Areas)

Deficiency: You see crude inscriptions or drawings scratched, painted, or sprayed on an interior building surface at 1 location. An interior surface includes but is not limited to

walls, doors, ceiling, and floors. A location is defined as 1 general area in a building such as 1 hallway in a 10 story building or 1 floor of a stairwell in a 5 story building.

Note: There is a difference between art forms and graffiti. If there by design in accordance with proper authorization, do not consider full wall murals and other art forms as graffiti.

Level of Deficiency:

Level 1: You see graffiti on an interior surface at 1 location in the same building.

Level 2: You see graffiti at 2 to 5 locations on interior surfaces in the same building.

Level 3: You see graffiti in 6 or more locations on interior surfaces in the same building.

HVAC (Common Areas)

System to provide heating, cooling and ventilation to the unit. This does not include building heating or cooling system deficiencies such as boilers, chillers, circulating pumps, distribution lines, fuel supply, etc., or occupant owned or supplied heating sources.

This inspectable item can have the following deficiencies:

- Convection/Radiant Heat System Covers Missing/Damaged
- General Rust/Corrosion
- Inoperable
- Misaligned Chimney/Ventilation System
- Noisy/Vibrating/Leaking

Convection/Radiant Heat System Covers Missing/Damaged (HVAC—Common Areas)

Deficiency: A cover on the convection/radiant heat system is missing or damaged, which could cause a burn or related injury.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: At least 1 cover is missing or substantially damaged, allowing contact with heating/surface elements or associated fans.

Comment:

Level 3: When the system is operational during an inspection and you see a Level 3 deficiency, a real-time hazard exists, you must record it manually under ''Hazards (Health and Safety).''

General Rust/Corrosion (HVAC—Common Areas)

Deficiency: The equipment or associated piping/ducting shows evidence of flaking, oxidation, discoloration, pitting, or crevices.

Level of Deficiency:

Level 1: You see superficial surface rust.

Level 2: You see significant formations of metal oxides, flaking, or discoloration, or a pit or crevice.

Level 3: Because of this condition, the equipment or piping does not function.

Inoperable (HVAC—Common Areas)

Deficiency: The heating, cooling, or ventilation system does not function.

Note: If the HVAC system does not operate because of seasonal conditions, do not record this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The HVAC system does not function; it does not provide the heating or cooling it should. The system does not respond when the controls are engaged.

Comment:

Level 3: If this condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Misaligned Chimney/Ventilation System (HVAC—Common Areas)

Deficiency: The exhaust system on a gas, oil fired, or coal unit is misaligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any misalignment of an exhaust system on a gas fired, oil fired or coal unit that may cause improper or dangerous venting of gases.

Noisy/Vibrating/Leaking (HVAC—Common Areas)

Deficiency: The HVAC distribution components, including fans, are the source of unusual vibrations, leaks, or abnormal noise. Examples may include, but are not limited to, screeching, squealing, banging, shaking, etc.

Level of Deficiency:

Level 1: The HVAC system shows signs of abnormal vibrations, other noise, or leaks when engaged. The system still provides enough heating or cooling to maintain a minimum temperature range in the major living areas.

Level 2: N/A

Level 3: N/A

Lavatory Sink—Damaged/Missing (Common Areas)

Deficiency: A sink, faucet, or accessories are missing, damaged, or not functioning.

Note: If you see that a stopper is missing from a common area, do not record this as a deficiency.

Level of Deficiency:

Level 1: You see extensive discoloration or cracks in over 50% of the basin, but the sink can be used.

Level 2: N/A

Level 3: The sink or associated hardware have failed or are missing. The sink cannot be used.

Lighting—Missing/Damaged/Inoperable Fixture (Common Areas)

Deficiency: Lighting fixture is damaged, not functional, or missing.

Note: To conserve energy during daytime or in low-use areas, many facilities use alternate lights that are triggered by either a sensor or a timer. If you see these kinds of lights, ask the accompanying POA to verify that these conservation systems are in place.

Level of Deficiency:

Level 1: N/A

Level 2: 20% to 50% of the permanent lighting fixtures are missing or damaged to the point where they do not function. This results in inadequate lighting in the common area(s).

Level 3: More than 50% of the permanent lighting fixtures are missing or damaged to the point where they do not function. This results in inadequate lighting in the common area(s).

Mailboxes—Missing/Damaged (Common Areas)

Deficiency: The U.S. Postal Service resident/unit mailbox is either missing or so damaged that it does not function properly.

Note: Do not inspect commercial deposit boxes, FedEx, UPS, etc., or U.S. Postal Service ''blue boxes.''

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The U.S. Postal Service resident/unit mailbox cannot be locked.

-OR-

The U.S. Postal Service resident/unit mailbox is missing.

Outlets/Switches/Cover Plates—Missing/Broken (Common Areas)

The receptacle connected to a power supply or method to control the flow of electricity. Included are 2 and 3 prong outlets, ground fault interrupters, pull cords, 2 and 3 pole switches and dimmer switches.

Deficiency:

—The flush plate that covers the opening around a switch or outlet is damaged or missing.

-OR-

—A switch or outlet is missing.

Level of Deficiency:

Level 1: An outlet or switch has a broken cover plate over a junction box, but it does not result in exposed wiring.

Level 2: N/A

Level 3: An outlet or switch is missing.

-OR-

A cover plate is missing or broken, resulting in exposed wiring.

Pedestrian/Wheelchair Ramp (Common Areas)

Deficiency: A pedestrian walkway or wheelchair ramp is damaged or does not function as it should.

Level of Deficiency:

Level 1: N/A

Level 2: A walkway or ramp shows signs of deterioration and requires repair, but it can be used by people on foot, in wheelchairs, or using walkers.

Level 3: A walkway or ramp is damaged and cannot be used by people on foot, in wheelchairs, or using walkers.

Plumbing (Common Areas)

This inspectable item can have the following deficiencies:

- Clogged Drains
- Leaking Faucet/Pipes

Clogged Drains (Plumbing—Common Areas)

Deficiency: Water does not drain adequately from the shower, sink, tub, or basin.

Level of Deficiency:

Level 1: Water does not drain freely, but the fixture can be used.

Level 2: N/A

Level 3: The drain is completely clogged or has suffered extensive deterioration. The fixture cannot be used.

Leaking Faucet/Pipes (Plumbing—Common Areas)

Deficiency: You see that the sink faucet or piping is leaking.

Level of Deficiency:
Level 1: You see a leak or drip that is contained by the basin and pipes, and the faucet can be used.
Level 2: N/A
Level 3: You see a steady leak that is adversely affecting the surrounding area.
-OR-
The faucet/pipe cannot be used.

Pools and Related Structures (Common Areas)

This inspectable item has the following deficiencies:

- Damaged/Not Intact Fencing/Gates(s)
- Inoperable

Damaged/Not Intact Fencing/Gate(s) (Pools and Related Structures—Common Areas)

Deficiency: You see that fencing and/or a gate(s) around the swimming pool is damaged.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see any damage that could compromise the integrity of the fence and/or gate(s).

Inoperable (Pools and Related Structures—Common Areas)

Deficiency: The pool was not in operation during the inspection.
Note: If the pool is open for the season, it should be operational. If the pool is closed for the season, do not record this is a deficiency.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The pool is not operational.
-OR-
You see unsafe conditions at the pool/pool area that could cause an injury.

Range Hood/Exhaust Fans—Excessive Grease/Inoperable (Common Areas)

Deficiency: The apparatus that draws out cooking exhaust does not function as it should.
Level of Deficiency:
Level 1: An accumulation of dirt, grease, or other barrier noticeably reduces the free passage of air.
Level 2: N/A
Level 3: The exhaust fan does not function.
-OR-
You estimate that the flue may be completely blocked.

Range/Stove—Missing/Damaged/Inoperable (Common Areas)

Deficiency: The unit is missing or damaged.
Level of Deficiency:
Level 1: The operation of doors or drawers is impeded, but the stove is functioning. On gas ranges, flames are not distributed equally. The pilot light is out on 1 or more burners.
Level 2: One burner is not functioning.
Level 3: The unit is missing.
-OR-
Two or more burners are not functioning.
-OR-
The oven is not functioning.
Comment:
Level 3: If you think this condition is a health and safety concern, record it under ''Hazards (Health and Safety).''

Refrigerator—Damaged/Inoperable (Common Areas)

Deficiency: The refrigerator is missing or does not cool adequately to store food safely.
Level of Deficiency:
Level 1: The refrigerator has an excessive accumulation of ice.
-OR-
The seals around the doors are deteriorated.
Level 2: N/A
Level 3: The refrigerator is missing.
-OR-
The refrigerator does not cool adequately for the safe storage of food.

Restroom Cabinet—Damaged/Missing (Common Areas)

Deficiency: You see damaged or missing cabinets, vanity tops, drawers, shelves, doors, medicine cabinets, or vanities.
Level of Deficiency:
Level 1: You see damaged or missing cabinets, vanity tops, drawers, shelves, doors, medicine cabinets or vanities that are not functioning as they should for storage or their intended purpose.
Level 2: N/A
Level 3: N/A

Shower/Tub—Damaged/Missing (Common Areas)

Deficiency: The shower, tub, or components are damaged or missing.
Note: A missing stopper in a common area is not a deficiency.
Level of Deficiency:
Level 1: N/A
Level 2: The shower or tub can be used, but you see cracks or extensive discoloration in more than 50% of the basin.
Level 3: The shower or tub cannot be used for any reason. The shower, tub, faucets, drains, or associated hardware is missing or has failed.

Sink—Missing/Damaged (Common Areas)

Deficiency: A sink, faucet, or accessories are missing, damaged, or not functioning.
Note: If a stopper is missing, do not record it as a deficiency.
Level of Deficiency:
Level 1: You see extensive discoloration or cracks in 50% or more of the basin, but the sink and hardware can still be used to prepare food.
Level 2: N/A
Level 3: The sink or hardware is either missing or not functioning.

Smoke Detector—Missing/Inoperable (Common Areas)

Sensor to detect the presence of smoke and activate an alarm. May be battery operated or hard-wired to electrical system. May provide visual signal, audible signal, or both.
Deficiency:
—A smoke detector will not activate.
-OR-
—A hardwired smoke detector is missing.
Note:
1. If a smoke detector is there, it must function as it should.
2. ''Missing'' means that evidence suggests that unauthorized personnel have removed a hardwired smoke detector that should be there.
3. If 2 or more smoke detectors are on the same level in visible proximity, at least 1 of the smoke detectors must function as it should.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: A single smoke detector is missing or does not function as it should.

Stairs/Hand Railings Damaged (Common Areas)

Series of 4 or more steps or flights of steps joined by landings connecting levels of a common area. Includes supports, frame, treads, handrails.
This inspectable item can have the following deficiencies:

- Broken/Damaged/Missing Steps
- Broken/Missing Hand Railing

Broken/Damaged/Missing Steps (Stairs/Hand Railings Damaged—Common Areas)

Deficiency: The horizontal tread or stair surface is damaged or missing.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: A step is broken or missing.

Broken/Missing Hand Railing (Stairs/Hand Railings Damaged—Common Areas)

Deficiency: The handrail is damaged or missing.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The handrail for 4 or more stairs is either missing, damaged, loose, or otherwise unusable.

Ventilation/Exhaust System—Inoperable (Common Areas)

Deficiency: The apparatus used to exhaust air has failed.
Note: If there was never a bathroom fan, do not record this as a deficiency.
Level of Deficiency:
Level 1: N/A
Level 2: An exhaust fan is not functioning.
-OR-
A bathroom window cannot be opened.
Level 3: N/A

Walls (Common Areas)

The enclosures of units and rooms. Materials for construction include concrete, masonry block, brick, wood, glass block, plaster, sheet-rock. Surface finish materials include paint or wall coverings.
This inspectable item can have the following deficiencies:

- Bulging/Buckling
- Damaged
- Damaged/Deteriorated Trim
- Mold/Mildew/Water Stains/Water Damage
- Peeling/Needs Paint

Bulging/Buckling (Walls—Common Areas)

Deficiency: A wall is bowed, deflected, sagging, or is no longer aligned horizontally.
Level of Deficiency:
Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a lack of horizontal alignment.

Comment:

Level 3: If you have any doubt about the severity of the condition, request an inspection by a structural engineer.

Damaged (Walls—Common Areas)

Deficiency: You see cracks and/or punctures in the wall surface that may or may not penetrate completely. Panels or tiles may be missing or damaged.

Note:

1. This does not include small holes from hanging pictures, etc.

2. Control joints/construction joints should not be recorded as a deficiency.

3. Cracks that have been repaired or sealed properly should not be considered a deficiency.

Level of Deficiency:

Level 1: In a wall, you find a hole, crack, missing tile or panel, or other damage that is between 1 square inch and 8½ inches by 11 inches and does not penetrate the adjoining room/area. You cannot see through it to the adjoining area.

-OR-

You find a crack greater than 1/8 inch wide and at least 11 inches long.

Level 2: In a wall, you find a hole, missing tile or panel, or other damage that is larger than a sheet of paper, 8½ inches by 11 inches, and does not penetrate the adjoining room. You cannot see through it to the adjoining area.

Level 3: You find a hole of any size that penetrates an adjoining room. You can see through the hole.

-OR-

Two or more walls have Level 2 holes.

Comments:

Level 3: If a hole or crack is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

If you as an inspector have concerns about the possibility of failure, inform the property representative that an inspection by a professional engineer is suggested.

Damaged/Deteriorated Trim (Walls—Common Areas)

Deficiency: Cove molding, chair rail, base molding, or other decorative trim is damaged or has decayed.

Note: Before the inspection starts, you should be given a list of UFAS buildings/units. For the buildings/units on this list, do not record superficial surface/paint damage caused by wheelchairs, walkers, or medical devices as a deficiency.

Level of Deficiency:

Level 1: You see small areas of deterioration in the trim surfaces, and you estimate that 5% to 10% of the wall area is affected.

Level 2: You see large areas of deterioration in the trim surfaces, and you estimate that 10% to 50% of the wall area is affected.

Level 3: You see significant areas of deterioration in the wall surfaces, and you estimate that more than 50% of the wall area is affected.

Mold/Mildew/Water Stains/Water Damage (Walls—Common Areas)

Deficiency: You see mold or mildew that may have been caused by saturation or surface failure or evidence of water infiltration or other moisture producing conditions.

Level of Deficiency:

Level 1: On 1 wall, you see evidence of mold or mildew, such as a darkened area, over a large area (4 square inches to 1 square foot). You may or may not see water.

Level 2: N/A

Level 3: On 1 wall, you estimate that a very large area (more than 1 square foot) of its surface has been substantially saturated or damaged by mold, or mildew. The wall surface may have failed.

Peeling/Needs Paint (Walls—Common Areas)

Deficiency: Paint is peeling, cracking, flaking, or otherwise deteriorated.

Note: Before the inspection starts, you should be given a list of UFAS buildings/units. For the buildings/items on this list, do not record as deficiencies any superficial surface/paint damage caused by wheelchairs, walkers, or medical devices.

Level of Deficiency:

Level 1: The affected area affected is 1 to 4 square feet on 2 or more walls.

Level 2: The affected area is more than 4 square feet on any wall or walls.

Level 3: N/A

Water Closet/Toilet—Damaged/Clogged/Missing (Common Areas)

Deficiency: A water closet/toilet is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: Fixture elements, seat, flush handle, cover etc., are missing or damaged.

-OR-

The toilet seat is cracked, or the hinge is broken.

Level 3: The bowl is fractured or broken and cannot retain water.

-OR-

The water closet/toilet is missing.

-OR-

There is a hazardous condition.

-OR-

The water closet/toilet cannot be flushed, because of obstruction or another defect.

Windows (Common Areas)

Window systems provide light, security, and exclusion of exterior noise, glare, dust, heat, and cold. Frame materials include wood, aluminum, and vinyl.

This inspectable item can have the following deficiencies:

- Cracked/Broken/Missing Panes
- Damaged/Missing Screens
- Damaged Sills/Frames/Lintels/Trim
- Inoperable/Not Lockable
- Missing/Deteriorated Caulking/Seals/Glazing Compound
- Peeling/Needs Paint
- Security Bars Prevent Egress

Cracked/Broken/Missing Panes (Windows—Common Areas)

Deficiency: A glass pane is cracked, broken, or missing from the window sash.

Level of Deficiency:

Level 1: You see a cracked window pane.

Level 2: N/A

Level 3: You see that a glass pane is broken or missing from the window sash.

Damaged/Missing Screens (Windows—Common Areas)

Deficiency: Screens are punctured, torn, otherwise damaged, or missing.

Level of Deficiency:

Level 1: One or more screen(s) in a common area are punctured, torn, otherwise damaged, or missing.

Level 2: N/A

Level 3: N/A

Damaged Sills/Frames/Lintels/Trim (Windows—Common Areas)

Deficiency: The sill, frames, sash lintels or trim are damaged by decay, rust, rot, corrosion, or other deterioration.

Note: Damage does not include scratches and cosmetic deficiencies.

Level of Deficiency:

Level 1: You see damage to sills, frames, sash lintels or trim, but nothing is missing. The inside of the surrounding wall is not exposed. You see no impact on either the operation or functioning of the window or on its weather tightness.

Level 2: Sills, frames, sash lintels, or trim are missing or damaged enough to expose the inside of the surrounding walls and compromise its weather tightness.

Level 3: N/A

Inoperable/Not Lockable (Windows—Common Areas)

Deficiency: A window cannot be opened or closed because of damage to the frame, faulty hardware, or another cause.

Note:

1. If a window is not designed to lock, do not record this as a deficiency.

2. Windows that are accessible from the outside, for example, a ground level window, must be lockable.

Level of Deficiency:

Level 1: A window is not functioning, but can be secured. Other windows in the immediate area are functioning.

Level 2: N/A

Level 3: A window is not functioning and cannot be secured. In the immediate area, there are no other windows that are functioning properly.

Missing/Deteriorated Caulking/Seals/Glazing Compound (Windows—Common Areas)

Deficiency: The caulk, seals or glazing compound that resists weather is missing or deteriorated.

Note:

1. This includes Thermopane and insulated windows that have failed.

2. Caulk and seals are considered to be deteriorated when 2 or more seals for any window have lost their elasticity. (If the seals crumble and flake when touched, they have lost their elasticity.)

Level of Deficiency:

Level 1: Most of the window shows missing or deteriorated caulk, seals and/or glazing compound, but there is no evidence of damage to the window or surrounding structure.

Level 2: N/A

Level 3: There are missing or deteriorated caulk, seals, and/or glazing compound with Evidence of leaks or damage to the window or surrounding structure.

Peeling/Needs Paint (Windows—Common Areas)

Deficiency: Paint covering the window assembly or trim is peeling, cracking, flaking, or otherwise failing.

Level of Deficiency:

Level 1: You see paint that is peeling, cracking, flaking or otherwise failing, or a window that needs paint.

Level 2: N/A

Level 3: N/A

Security Bars Prevent Egress (Windows—Common Areas)

Deficiency: Exiting or egress is severely limited or impossible because security bars are damaged or improperly constructed or installed. Security bars that are designed to open should open. If they do not open, record a deficiency.

Note: Inspector should verify that the security bars if opened do not activate an alarm that would alarm or summon outside authorities (police, etc.).

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Exiting or egress is severely limited or impossible because security bars are damaged, improperly constructed/installed, or security bars that are designed to open cannot be readily opened.

Unit Inspectable Items

Items to inspect for ''Unit'' are as follows:

- Bathroom
- Call-for-Aid
- Ceiling
- Doors
- Electrical System
- Floors
- Hot Water Heater
- HVAC System
- Kitchen
- Laundry Area
- Lighting
- Outlets/Switches
- Patio/Porch/Balcony
- Smoke Detector
- Stairs
- Walls
- Windows

Bathroom (Unit)

A room equipped with a water closet or toilet, tub and/or shower, sink, cabinet(s) and/or closet. This inspectable item can have the following deficiencies:

- Bathroom Cabinets—Damaged/Missing
- Lavatory Sink—Damaged/Missing
- Plumbing—Clogged Drains
- Plumbing—Leaking Faucet/Pipes
- Shower/Tub—Damaged/Missing
- Ventilation/Exhaust System—Inoperable
- Water Closet/Toilet—Damaged/Clogged/Missing

Bathroom Cabinets—Damaged/Missing (Bathroom—Unit)

Deficiency: You see damaged or missing cabinets, vanity tops, drawers, shelves, doors, medicine cabinets, or vanities.

Level of Deficiency:

Level 1: You see damaged or missing cabinets, vanity tops, drawers, shelves, doors, medicine cabinets or vanities that are not functioning as they should for storage or their intended purpose.

Level 2: N/A

Level 3: N/A

Lavatory Sink—Damaged/Missing (Bathroom—Unit)

Deficiency: A basin (sink) is missing or shows signs of deterioration or distress.

Note: If you see the stopper near the sink area, do not record it as a deficiency.

Level of Deficiency:

Level 1: The sink can be used, but you see either of these:

—There are cracks or extensive discoloration in more than 50% of the basin;

-OR-

- A stopper is missing.

Level 2: N/A

Level 3: The sink cannot be used, because the sink or associated hardware is missing or has failed.

Plumbing—Clogged Drains (Bathroom—Unit)

Deficiency: Water does not drain adequately in the shower, tub, or basin (sink).

Level of Deficiency:

Level 1: Water does not drain freely, but the fixtures can be used.

Level 2: N/A

Level 3: The fixtures are not usable, because the drain is completely clogged or shows extensive deterioration.

Plumbing—Leaking Faucet/Pipes (Bathroom—Unit)

Deficiency: You see that a basin, shower, water closet, tub faucet, or associated pipes are leaking water.

Level of Deficiency:

Level 1: You see a leak or drip that is contained by the basin, and the faucet or pipe can be used.

Level 2: N/A

Level 3: You see a steady leak that is adversely affecting the area around it.

-OR-

The faucet or pipe cannot be used.

Shower/Tub—Damaged/Missing (Bathroom—Unit)

Deficiency: The shower, tub, or components are damaged or missing. This includes associated hardware, such as grab bars, shower doors, etc.

Note:

1. This does not include leaking faucets and pipes.

2. If you see the stopper near the shower/tub area, do not record it as a deficiency.

Level of Deficiency:

Level 1: A stopper is missing.

Level 2: The shower or tub can be used, but you see cracks or extensive discoloration in more than 50% of the basin.

Level 3: The shower or tub cannot be used for any reason. The shower, tub, faucets, drains, or associated hardware is missing or has failed.

Ventilation/Exhaust System—Inoperable (Bathroom—Unit)

Deficiency: The apparatus used to exhaust air has failed.

Note:

1. If a resident has blocked an exhaust fan but it can function properly, do not record this as a deficiency.

2. If a resident has disconnected a fan, consider it functional if it can be immediately reconnected for your inspection.

3. If there was never a bathroom fan, do not record this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: An exhaust fan is not functioning.

-OR-

A bathroom window cannot be opened.

Level 3: N/A

Water Closet/Toilet—Damaged/Clogged/Missing (Bathroom—Unit)

Deficiency: A water closet/toilet is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: Fixture elements, seat, flush handle, cover etc., are missing or damaged.

-OR-

The toilet seat is cracked, or the hinge is broken.

Level 3: The bowl is fractured or broken and cannot retain water.

-OR-

The water closet/toilet is missing.

-OR-

There is a hazardous condition.

-OR-

The water closet/toilet cannot be flushed, because of obstruction or another defect.

Call-for-Aid—Inoperable (Unit)

System to summon help. May be visual, audible, or both. May be activated manually or automatically when pre-programmed conditions are met.

Deficiency: The system does not function.

Note: Inspector should verify that the Call-for-Aid only alerts local entities (on-site) prior to testing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The system does not function.

Ceiling (Unit)

The visible overhead structure lining the inside of a room or area.

This inspectable item can have the following deficiencies:

- Bulging/Buckling
- Holes/Missing Tiles/Panels/Cracks
- Peeling/Needs Paint
- Mold/Mildew/Water Stains/Water Damage

Bulging/Buckling (Ceiling—Unit)

Deficiency: The ceiling is bowed, deflected, sagging, or is no longer aligned horizontally to the extent that ceiling failure is possible.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a problem with alignment.

Comment:

Level 3: If you as an inspector have concerns about the possibility of failure, inform the property representative that an inspection by a professional engineer is suggested.

Holes/Missing Tiles/Panels/Cracks (Ceiling—Unit)

Deficiency:

- The ceiling surface has punctures that may or may not penetrate completely.

-OR-

- Panels or tiles are missing or damaged.

Level of Deficiency:

Level 1: You see small holes that are no larger than a sheet of paper, 8½ inches by 11 inches.

-OR-

No hole or crack penetrates the area above.

-OR-

You see that no more than 3 tiles or panels are missing.

-OR-

You see a crack more than ⅛ inch wide and 11 inches long.

Level 2: You see a hole that is larger than a sheet of paper, 8½ inches by 11 inches, but it does not penetrate the area above. You cannot see through it.

-OR-

You see that more than 3 tiles or panels are missing.

-OR-

You see a crack more than ⅛ inch wide and 11 inches long.

Level 3: You see a hole that penetrates the area above. You can see through it.

Comment:

Level 3: If a hole or crack is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Peeling/Needs Paint (Ceiling—Unit)

Deficiency:

—You see paint that is peeling, cracking, flaking, or otherwise deteriorated.

-OR-

—You see a surface that is not painted.

Level of Deficiency:

Level 1: The affected area is larger than 1 square foot, but smaller than 4 square feet.

Level 2: The affected area is larger than 4 square feet.

Level 3: N/A

Mold/Mildew/Water Stains/Water Damage (Ceiling—Unit)

Deficiency: You see mold or mildew that may have been caused by saturation or surface failure or evidence of water infiltration or other moisture producing conditions.

Level of Deficiency:

Level 1: On 1 ceiling, you see evidence of mold or mildew, such as a darkened area, over a large area (4 square inches to 1 square foot). You may or may not see water.

Level 2: N/A

Level 3: On 1 ceiling, you estimate that a very large area (more than 1 square foot) of its surface has been substantially saturated or damaged by mold or mildew. The ceiling surface may have failed.

Doors (Unit)

Means of access to the interior of a unit, room within the unit, or closet. Doors provide privacy and security, control passage, provide fire and weather resistance.

This inspectable item can have the following deficiencies:

- Damaged Frames/Threshold/Lintels/Trim
- Damaged Hardware/Locks
- Damaged Surface (Holes/Paint/Rust/Glass)
- Damaged/Missing Screen/Storm/Security Door
- Deteriorated/Missing Seals (Entry Only)
- Missing Door

Damaged Frames/Threshold/Lintels/Trim (Doors—Unit)

Deficiency: You see a frame, header, jamb, threshold, lintel, or trim that is warped, split, cracked, or broken.

Note: If you see damage to a door's hardware, (locks, hinges, etc.) record this under ''Damage Hardware/Locks (Doors—Unit).''

Level of Deficiency:

Level 1: N/A

Level 2: At least 1 door is not functioning or cannot be locked because of damage to the frame, header, jamb, threshold, lintel, or trim.

Level 3: At least 1 bathroom door or entry door is not functioning or cannot be locked because of damage to the frame, header, jamb, threshold, lintel, or trim.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Damaged Hardware/Locks (Doors—Unit)

Deficiency: The attachments to a door that provide hinging, hanging, opening, closing, surface protection, or security are damaged or missing. These include locks, panic hardware, overhead door tracks, springs and pulleys, sliding door tracks and hangers, and door closures.

Note:

1. If a door is designed to have a lock, the lock should work. If a door is designed without locks, do not record it as a deficiency.

2. If a lock has been removed from an interior door, do not record this as a deficiency.

3. 504 units have had locks removed. Before you start the inspection, you should be given a list of units relative to UFAS. Do not record these missing locks as deficiencies.

4. For public housing, if a lock on a bedroom door is missing or damaged, do not record it as a deficiency.

Level of Deficiency:

Level 1: A closet door does not function as it should because of damage to the door's hardware.

-OR-

A closet door that requires locking cannot be locked because of damage to the door's hardware.

Level 2: A door, other than a closet door, does not function as it should because of damage to the door's hardware.

-OR-

A door, other than a closet door, that requires locking cannot be locked because of damage to the door's hardware.

Level 3: A bathroom door or entry door does not function as it should because of damage to the door's hardware.

-OR-

A bathroom door or entry door that requires locking cannot be locked because of damage to the door's hardware.

Damaged Surface (Holes/Paint/Rust/Glass) (Doors—Unit)

Deficiency: This includes holes, peeling/cracking/no paint, broken glass and significant rust. You see damage to the door surface that:

—May affect either the surface protection or the strength of the door.

-OR-

—May compromise building security.

Note: If the door is a bathroom door or entry door, this is a Level 3 deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: One interior door, not a bathroom or entry door, has a hole or holes with a diameter ranging from ¼ inch to 1 inch.

Level 3: One door has a hole or holes larger than 1 inch in diameter, significant peeling/cracking/no paint, rust that affects the integrity of the door surface, or broken/missing glass.

-OR-

If a bathroom door or entry door has Level 2 damage.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Damaged/Missing Screen/Storm/Security Door (Doors—Unit)

Deficiency: You see damage to surfaces, including screens, glass, frames, hardware, and door surfaces.

Level of Deficiency:

Level 1: At least 1 screen door or storm door is damaged or is missing screens or glass, as shown by an empty frame or frames.

Level 2: N/A

Level 3: A security door is not functioning or missing.

Comment:

Level 3: ''Missing'' applies only if a security door that should be there is not there.

Deteriorated/Missing Seals (Entry Only) (Doors—Unit)

Deficiency: The seals and stripping around the entry door(s) to resist weather and fire are damaged or missing.

Note: This defect applies only to entry doors that were designed with seals. If a door shows evidence that a seal was never part of its design, do not record it as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The seals are missing on 1 entry door, or they are so damaged that they do not function as they should.

Missing Door (Doors—Unit)

Deficiency: A door is missing.

Note:

1. If a bathroom or entry door is missing, record this as a Level 3 deficiency.

2. If a bedroom door has been removed to improve access for an elderly or handicapped resident, do not record this as a deficiency.

Level of Deficiency:

Level 1: A door is missing, but it is not a bathroom door or entry door.

Level 2: Two doors or up to 50% of the doors are missing, but they are not bathroom

doors or entry doors, and the condition presents no hazard.

Level 3: A bathroom door or entry door is missing.

-OR-

You estimate that more than 50% of the unit doors, not including bathroom doors and entry doors, are missing.

Electrical System (Unit)

Portion of the unit that safely provides electrical power throughout the building. Includes equipment that provides control, protection, metering, and service.

This inspectable item can have the following deficiency:

- Blocked Access to Electric Panel
- Burnt Breakers
- Evidence of Leaks Corrosion
sbull; Frayed Wiring
- GFI Inoperable
- Missing Breakers/Fuses
- Missing Covers

Blocked Access to Electrical Panel (Electrical System—Unit)

Deficiency: A fixed obstruction or item of sufficient size and weight can delay or prevent access to any panel board switch in an emergency.

Note: If you see an item that is easy to remove, like a picture, do not note this as a deficient.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: One or more fixed item(s) of sufficient size and weight can impede access to the unit's electrical panel during an emergency.

Burnt Breakers (Electrical System—Unit)

Deficiency: Breakers have carbon on the plastic body, or the plastic body is melted and scarred.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any carbon residue, melted breakers, or arcing scars.

Evidence of Leaks/Corrosion (Electrical System—Unit)

Deficiency: You see liquid stains, rust marks, or other signs of corrosion on electrical enclosures or hardware.

Note: Do not consider surface rust a deficiency if it does not affect the condition of the electrical enclosure.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Any corrosion that affects the condition of the components that carry electrical current.

-OR-

Any stains or rust on the interior of electrical enclosures.

-OR-

Any evidence of water leaks in the enclosure or hardware.

Frayed Wiring (Electrical System—Unit)

Deficiency: You see nicks, abrasions, or fraying of the insulation that expose wires that conduct current.

Note: Do not consider this a deficiency for wires that are not intended to be insulated, such as grounding wires.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any nicks, abrasions, or fraying of the insulation that expose any conducting wire.

Comment:

Level 3: If the condition is a health and safety concern, you must record it manually under ''Electrical Hazards (Health and Safety).''

GFI—Inoperable (Electrical System—Unit)

Deficiency: The GFI does not function.

Note: To determine whether the GFI is functioning, you must press the self-test button in the GFI unit.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The GFI does not function.

Comment:

Level 3: If this condition is a health and safety concern, you must record it under ''Electrical Hazards (Health and Safety).''

Missing Breakers/Fuses (Electrical System—Unit)

Deficiency: In a panel board, main panel board, or other electrical box that contains circuit breakers/fuses, you see an open circuit breaker position that is not appropriately blanked-off.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see an open breaker port.

Missing Covers (Electrical System—Unit)

Deficiency: The cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., with exposed electrical connections.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A cover is missing, and you see exposed electrical connections.

Floors (Unit)

The visible horizontal surface system within a room or area underfoot; the horizontal division between 2 stories of a structure.

This inspectable item can have the following deficiencies:

- Bulging/Buckling
- Hard Floor Covering Missing/Damaged Flooring/Tiles
- Mold/Mildew/Water Stains/Water Damage
- Peeling/Needs Paint
- Rot/Deteriorated Subfloor
- Soft Floor Covering Damage

Bulging/Buckling (Floors—Unit)

Deficiency: A floor is bowed, deflected, sagging, or is no longer aligned horizontally.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a lack of horizontal alignment.

Comment:

Level 3: If you have any doubt about the severity of this condition, request an inspection by a structural engineer.

Hard Floor Covering Missing/Damaged Flooring/Tiles (Floors—Unit)

Deficiency: You see that hard flooring, terrazzo, hardwood, ceramic tile, sheet vinyl, vinyl tiles, or other similar flooring material, is missing section(s), is missing, or presents a tripping or cutting hazard, associated with but not limited to holes or delamination.

Level of Deficiency:

Level 1: For any single floor surface, you see deficiencies in areas of the floor surface. You estimate that 5% to 10% of the floor is affected, and there are no safety problems.

Level 2: You estimate that 10% to 50% of any single floor surface is affected, but there are no safety problems.

Level 3: You estimate that more than 50% of any single floor surface is affected by Level 1 deficiencies.

-OR-

The condition causes a safety problem.

Mold/Mildew/Water Stains/Water Damage (Floors—Unit)

Deficiency: You see mold or mildew that may have been caused by saturation or surface failure or evidence of water infiltration or other moisture producing conditions.

Level of Deficiency:

Level 1: N/A

Level 2: On 1 floor, you see evidence of mold or mildew, such as a darkened area, over a large area (4 square inches to 1 square foot). You may or may not see water.

Level 3: On 1 floor, you estimate that a very large area (more than 1 square foot) of its surface has been substantially saturated or damaged by mold or mildew. The floor surface may have failed.

Peeling/Needs Paint (Floors—Unit)

Deficiency: For floors that are painted, you see paint that is peeling, cracking, flaking, or otherwise deteriorated.

Level of Deficiency:

Level 1: The area affected is more than 1 square foot, but less than 4 square feet.

Level 2: The area affected is more than 4 square feet.

Level 3: N/A

Rot/Deteriorated Subfloor (Floors—Unit)

Deficiency: The subfloor has decayed or is decaying.

Note:

1. If there is any doubt, apply weight to detect noticeable deflection.

2. This type of defect typically occurs in kitchens and bathrooms.

Level of Deficiency:

Level 1: N/A

Level 2: You see small areas of rot or spongy flooring that is more than 1 square foot, but less than 4 square feet.

Level 3: You see large areas of rot, more than 4 square feet, and applying weight causes noticeable deflection.

Comment:

Level 3: If you as an inspector have concerns about the health and safety, inform the property representative that an inspection by a professional engineer is suggested.

Soft Floor Covering Missing/Damage (Floors—Unit)

Deficiency: You see damaged and/or missing soft floor covering.

Level of Deficiency:

Level 1: You estimate that only 5% to 10% of any single soft floor covering has stains, surface burns, shallow cuts, small holes, tears, loose areas, or exposed seams. The covering is fully functional, and there is no safety hazard.

Level 2: You estimate that 10% to 50% of any single soft floor covering has burn marks, cuts, tears, holes, or large sections of exposed seams that expose the underlying material. There is no safety hazard.

Level 3: You estimate that more than 50% of any single soft floor covering is damaged.

-OR-

Damage to the soft floor covering exposes the underlying material.

Comment:

Level 3: If this condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Hot Water Heater (Unit)

This inspectable item can have the following deficiencies:

- General Rust/Corrosion
- Inoperable Unit/Components
- Leaking Valves/Tanks/Pipes
- Misaligned Chimney/Ventilation System
- Missing Pressure Relief Valve

General Rust/Corrosion (Hot Water Heater—Unit)

Deficiency: The equipment or associated piping/ducting shows evidence of flaking, oxidation, discoloration, pitting, or crevices.

Level of Deficiency:

Level 1: You see superficial surface rust.

Level 2: You see significant formations of metal oxides, flaking, discoloration, or a pit or crevice.

Level 3: Because of this condition, the equipment or piping does not function.

Inoperable Unit/Components (Hot Water Heater—Unit)

Deficiency: Hot water supply is not available, because the system or system components have malfunctioned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: After running, water from the hot water taps is not warmer than room temperature.

Leaking Valves/Tanks/Pipes (Hot Water Heater—Unit)

Deficiency: You see water leaking from any hot water system component, including valve flanges, stems, bodies, domestic hot water tank, or its piping.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see water leaking.

Comment:

Level 3: If this condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Misaligned Chimney/Ventilation System (Hot Water Heater—Unit)

Deficiency: The exhaust system on a gas fired or oil fired unit is misaligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any misalignment of an exhaust system on a gas fired or oil fired unit that may cause improper or dangerous venting of gases.

Missing Pressure Relief Valve (Hot Water Heater—Unit)

Deficiency: The pressure relief valve on the unit water heating system is missing or does not extend to the floor.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see that the pressure relief valve on the unit water heating system is either missing or does not extend to the floor.

HVAC System (Unit)

System to provide heating, cooling and ventilation to the unit. This does not include building heating or cooling system deficiencies such as boilers, chillers, circulating pumps, distribution lines, fuel supply, etc., or occupant owned or supplied heating sources.

This inspectable item can have the following deficiencies:

- Convection/Radiant Heat System Covers Missing/Damaged
- General Rust/Corrosion
- Inoperable
- Misaligned Chimney/Ventilation System
- Noisy/Vibrating/Leaking

Convection/Radiant Heat System Covers Missing/Damaged (HVAC—Unit)

Deficiency: A cover on the convection/radiant heat system is missing or damaged, which could cause a burn or related injury.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: At least 1 cover is missing or substantially damaged, allowing contact with heating/surface elements or associated fans.

Comment:

Level 3: When the system is operational during an inspection and you see a Level 3 deficiency, a real-time hazard exists, you must record it manually under ''Hazards (Health and Safety).''

General Rust/Corrosion (HVAC—Unit)

Deficiency: You see a component of the system with deterioration from oxidation or corrosion of system parts. Deterioration is defined as rust and/or formations of metal oxides, flaking, or discoloration, or a pit or crevice.

Level of Deficiency:

Level 1: You see deterioration from rust and corrosion on the HVAC units in the dwelling unit. The system still provides enough heating or cooling.

Level 2: N/A

Level 3: N/A

Inoperable (HVAC—Unit)

Deficiency: The heating, cooling, or ventilation system does not function.

Note: If the HVAC system does not operate because of seasonal conditions, do not record this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The HVAC system does not function; it does not provide the heating or cooling it should. The system does not respond when the controls are engaged.

Comment:

Level 3: If this condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Misaligned Chimney/Ventilation System (HVAC—Unit)

Deficiency: The exhaust system on either a gas, oil fired, or coal unit is misaligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any misalignment of an exhaust system on a gas fired, oil fired or coal unit that may cause improper or dangerous venting of gases.

Noisy/Vibrating/Leaking (HVAC—Unit)

Deficiency: The HVAC distribution components, including fans, are the source of unusual vibrations, leaks, or abnormal noise. Examples may include, but are not limited to, screeching, squealing, banging, shaking, etc.

Level of Deficiency:

Level 1: The HVAC system shows signs of abnormal vibrations, other noise, or leaks when engaged. The system still provides enough heating or cooling to maintain a minimum temperature range in the major living areas.

Level 2: N/A

Level 3: N/A

Kitchen (Unit)

A place where food is cooked or prepared. The facilities and equipment used in preparing and serving food.

This inspectable item can have the following deficiencies:

- Cabinets—Missing/Damaged
- Countertops—Missing/Damaged
- Dishwasher/Garbage Disposal—Inoperable
- Plumbing—Clogged Drains
- Plumbing—Leaking Faucets/Pipes
- Range Hoods/Exhaust Fans—Excessive Grease/Inoperable
- Range/Stove—Missing/Damaged/Inoperable
- Refrigerator—Missing/Damaged/Inoperable
- Sink—Missing/Damaged

Cabinets—Missing/Damaged (Kitchen—Unit)

Deficiency: Cabinets are missing or the laminate is separating. This includes cases, boxes, or pieces of furniture with drawers, shelves, or doors, primarily used for storage, mounted on walls or floors.

Level of Deficiency:

Level 1: N/A

Level 2: You see that 10% to 50% of the cabinets, doors, or shelves are missing or the laminate is separating.

Level 3: You see that more than 50% of the cabinets, doors, or shelves are missing or the laminate is separating.

Countertops—Missing/Damaged (Kitchen—Unit)

Deficiency: A flat work surface in a kitchen often integral to lower cabinet space is missing or deteriorated.

Level of Deficiency:

Level 1: N/A

Level 2: 20% or more of the countertop working surface is missing, deteriorated, or damaged below the laminate and is not a sanitary surface on which to prepare food.

Level 3: N/A

Dishwasher/Garbage Disposal—Inoperable (Kitchen—Unit)

Deficiency: A dishwasher or garbage disposal, if provided, does not function.

Level of Deficiency:

Level 1: N/A

Level 2: The dishwasher or garbage disposal does not function.

Level 3: N/A

Plumbing—Clogged Drains (Kitchen—Unit)

Deficiency: The water does not drain adequately.

Level of Deficiency:

Level 1: The basin does not drain freely.

Level 2: N/A

Level 3: The drain is completely clogged or has suffered extensive deterioration.

Plumbing—Leaking Faucets/Pipes (Kitchen—Unit)

Deficiency: You see that a basin faucet or drain connections leak.

Level of Deficiency:

Level 1: You see a leak or drip that is contained by the basin or pipes, and the faucet is functioning as it should.

Level 2: N/A

Level 3: You see a steady leak that is having an adverse affect on the surrounding area, and the faucet or pipe is not usable.

Range Hood/Exhaust Fans—Excessive Grease/Inoperable (Kitchen—Unit)

Deficiency: The apparatus that draws out cooking exhaust does not function.

Level of Deficiency:

Level 1: An accumulation of dirt, grease or other barrier noticeably reduces the free passage of air.

Level 2: N/A

Level 3: The exhaust fan does not function.

-OR-

You estimate that the flue may be completely blocked.

Range/Stove—Missing/Damaged/Inoperable (Kitchen—Unit)

Deficiency: The unit is missing or damaged.

Note: Before the inspection starts, you should be given a list of units under UFAS. Do not record these disconnected or partially disconnected ranges/stoves as a deficiency.

Level of Deficiency:

Level 1: The operation of doors or drawers is impeded, but the stove is functioning. On gas ranges, flames are not distributed equally. The pilot light is out on 1 or more burners.

Level 2: One burner is not functioning.

Level 3: The unit is missing.

-OR-

Two or more burners are not functioning.

-OR-

The oven is not functioning.

Comment:

Level 3: If this condition is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

Refrigerator—Missing/Damaged/Inoperable (Kitchen—Unit)

Deficiency: The refrigerator is missing or does not cool adequately for the safe storage of food.

Level of Deficiency:

Level 1: The refrigerator has an excessive accumulation of ice.

-OR-

The seals around the doors are deteriorated.

Level 2: N/A

Level 3: The refrigerator is missing.

-OR-

The refrigerator does not cool adequately for the safe storage of food.

Sink—Missing/Damaged (Kitchen—Unit)

Deficiency: A sink, faucet, or accessories are missing, damaged or not functioning.

Note: If a stopper is missing, do not record it as a deficiency.

Level of Deficiency:

Level 1: You see extensive discoloration or cracks in 50% or more of the basin, but the sink and hardware can still be used to prepare food.

Level 2: N/A

Level 3: The sink or hardware is either missing or not functioning.

Laundry Area/Room—Dryer Vent Missing/Damaged/Inoperable (Unit)

Place where soiled clothes and linens are washed and/or dried.

Deficiency: Inadequate means is available to vent accumulated heat/lint to the outside. The dryer vent is missing, damaged or inoperable.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Dryer vent is missing, damaged or is visually determined to be inoperable (blocked). Dryer exhaust is not effectively vented to the outside.

Lighting—Missing/Inoperable (Unit)

System to provide illumination to a room or area. Includes fixtures, lamps, and supporting accessories.

Deficiency: A lighting fixture is missing or does not function as it should. The malfunction may be in the total system or components, excluding light bulbs.

Level of Deficiency:

Level 1: In 1 room in a unit, a permanent lighting fixture is missing or not functioning, and no other switched light source is functioning in the room.

Level 2: In 2 rooms, a permanent lighting fixture is missing or not functioning, and no other switched light source is functioning in the rooms.

Level 3: In more than 2 rooms, a permanent light fixture is missing or not functioning, and no other switched light sources are functioning in the rooms.

Outlets/Switches (Unit)

The receptacle connected to a power supply or method to control the flow of electricity. Includes 2 and 3 prong outlets, ground fault interrupters, pull cords, 2 and 3 pole switches and dimmer switches.

This inspectable item can have the following deficiencies:

- Missing
- Missing/Broken Cover Plates

Missing (Outlets/Switches—Unit)

Deficiency: An outlet, switch or both are missing.

Note: This does not apply to empty junction boxes that were not intended to contain an outlet or switch.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: An outlet, switch or both are missing.

Comment:

Level 3: If this condition is a health and safety concern, you must record it manually under ''Electrical Hazards (Health and Safety).''

Missing/Broken Cover Plates (Outlets/Switches—Unit)

Deficiency: The flush plate used to cover the opening around a switch or outlet is damaged or missing.

Level of Deficiency:

Level 1: An outlet or switch has a broken cover plate over a junction box, but this does not cause wires to be exposed.

Level 2: N/A

Level 3: A cover plate is missing, which causes wires to be exposed.

Patio/Porch/Balcony—Baluster/Side Railings Damaged (Unit)

Adjoining patio, porch or balcony.

Deficiency: A baluster or side railing on the porch/patio/balcony is loose, damaged or does not function, which limits the safe use of this area.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The baluster or side rails enclosing this area are loose, damaged or missing, limiting the safe use of this area.

Smoke Detector—Missing/Inoperable (Unit)

Sensor to detect the presence of smoke and activate an alarm. May be battery operated or hard-wired to electrical system. May provide visual signal, audible signal or both.

Deficiency: A smoke detector will not activate or is missing.

Note:

1. There must be at least 1 smoke detector on each level.

2. If 2 or more smoke detectors are on the same level in visible proximity, at least 1 of the smoke detectors must function as it should.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A single smoke detector is missing or does not function as it should.

Stairs (Unit)

Series of 4 or more steps, or flights of steps, joined by landings connecting levels of a unit. Includes supports, frame, treads and handrails.

This inspectable item can have the following deficiencies:

- Broken/Damaged/Missing Steps
- Broken/Missing Hand Railing

Broken/Damaged/Missing Steps (Stairs—Unit)

Deficiency: The horizontal tread or stair surface is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A step is broken or missing.

Broken/Missing Hand Railing (Stairs—Unit)

Deficiency: The handrail is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The handrail for 4 or more stairs is either missing, damaged, loose or otherwise unusable.

Walls (Unit)

The enclosure of the units and rooms. Materials for construction include concrete, masonry block, brick, wood, glass block, plaster and sheet-rock. Surface finish materials include paint and wall coverings.

This inspectable item can have the following deficiencies:

- Bulging/Buckling
- Damaged
- Damaged/Deteriorated Trim
- Mold/Mildew/Water Stains/Water Damage
- Peeling/Needs Paint

Bulging/Buckling (Walls—Unit)

Deficiency: A wall is bowed, deflected, sagged or is no longer vertically aligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or that the wall is no longer vertically aligned.

Comment:

Level 3: If you have any doubt about the severity of the condition, request an inspection by a structural engineer.

Damaged (Walls—Unit)

Deficiency: You see cracks and/or punctures in the wall surface that may or may not penetrate completely. Panels or tiles may be missing or damaged.

Note:

1. This does not include small holes created by hanging pictures, etc.

2. Control joints/construction joints should not be recorded as a deficiency.

3. Cracks that have been repaired or sealed properly should not be considered a deficiency.

Level of Deficiency:

Level 1: In a wall, you find a hole, crack, missing tile or panel, or other damage that is between 1 square inch and 8½ inches by 11 inches. The hole does not penetrate the adjoining room/area. You cannot see through it to the adjoining area.

-OR-

You find a crack greater than 1/8 inch wide and at least 11 inches long.

Level 2: In a wall, you find a hole, missing tile or panel, or other damage that is larger than a sheet of paper, 8 ½ inches by 11 inches, and does not penetrate the adjoining room. You cannot see through it to the adjoining area.

Level 3: You find a hole of any size that penetrates an adjoining room. You can see through the hole.

-OR-

Two or more walls have Level 2 holes.

Comments:

Level 3: If a hole or crack is a health and safety concern, you must record it manually under ''Hazards (Health and Safety).''

If you as an inspector have concerns about the possibility of failure, inform the property representative that an inspection by a professional engineer is suggested.

Damaged/Deteriorated Trim (Walls—Unit)

Deficiency: Cove molding, chair rail, base molding or other decorative trim is damaged or has decayed.

Note: Before the inspection starts, you should be given a list of UFAS buildings/units. For the buildings/units on this list, do not record superficial surface/paint damage caused by wheelchairs, walkers or medical devices as a deficiency.

Level of Deficiency:

Level 1: You see small areas of deterioration in the trim surfaces, and you estimate that 5% to 10% of the wall area is affected.

Level 2: You see large areas of deterioration in the trim surfaces, and you estimate that 10% to 50% of the wall area is affected.

Level 3: You see significant areas of deterioration in the wall surfaces, and you estimate that more than 50% of the wall area is affected.

Mold/Mildew/Water Stains/Water Damage (Walls—Unit)

Deficiency: You see mold or mildew that may have been caused by saturation or surface failure or evidence of water infiltration or other moisture producing conditions.

Level of Deficiency:

Level 1: On 1 wall, you see evidence of mold or mildew, such as a darkened area, over a large area (4 square inches to 1 square foot). You may or may not see water.

Level 2: N/A

Level 3: On 1 wall, you estimate that a very large area (more than 1 square foot) of its surface has been substantially saturated or damaged by mold, or mildew. The wall surface may have failed.

Peeling/Needs Paint (Walls—Unit)

Deficiency:

—Paint is peeling, cracking, flaking or otherwise deteriorated.

-OR-

—A surface is not painted.

Note: Before the inspection starts, you should be given a list of UFAS buildings/units. For the buildings/items on this list, do not record as deficiencies any superficial surface/paint damage caused by wheelchairs, walkers or medical devices.

Level of Deficiency:

Level 1: The affected area affected is more than 1 square foot but less than 4 square feet.

Level 2: The affected area is more than 4 square feet.

Level 3: N/A

Windows (Unit)

Window systems provide light, security, and exclusion of exterior noise, dust, heat, and cold. Frame materials include wood, aluminum and vinyl.

This inspectable item can have the following deficiencies:

- Cracked/Broken/Missing Panes
- Damages/Missing Screens
- Damaged Sills/Frames/Lintels/Trim
- Inoperable/Not Lockable
- Missing/Deteriorated Caulking/Seals
- Peeling/Needs Paint
- Security Bars Prevent Egress

Cracked/Broken/Missing Panes (Windows—Unit)

Deficiency: A glass pane is cracked, broken or missing from the window sash.

Level of Deficiency:

Level 1: You see a cracked window pane.

Level 2: N/A

Level 3: You see that a window pane is broken or missing from the window sash.

Damaged/Missing Screens (Windows—Unit)

Deficiency: Screens are punctured, torn, otherwise damaged, or missing.

Level of Deficiency:

Level 1: One or more screen(s) in a unit are punctured, torn, otherwise damaged, or missing.

Level 2: N/A

Level 3: N/A

Damaged Sills/Frames/Lintels/Trim (Windows—Unit)

Deficiency: The sill, frames, sash lintels or trim are damaged by decay, rust, rot, corrosion, or other deterioration.

Note: Damage does not include scratches and cosmetic deficiencies.

Level of Deficiency:

Level 1: You see damage to sills, frames, sash lintels or trim, but nothing is missing. The inside of the surrounding wall is not exposed. You see no impact on either the operation or functioning of the window or on its weather tightness.

Level 2: Sills, frames, sash lintels, or trim are missing or damaged enough to expose the inside of the surrounding walls and compromise its weather tightness.

Level 3: N/A

Inoperable/Not Lockable (Windows—Unit)

Deficiency: A window cannot be opened or closed because of damage to the frame, faulty hardware or another cause.

Note:

1. If a window is not designed to lock, do not record this as a deficiency.

2. Windows that are accessible from the outside, for example, a ground level window, must be lockable.

Level of Deficiency:

Level 1: A window is not functioning and can be secured. Other windows in the immediate area are functioning.

Level 2: N/A

Level 3: A window is not functioning, but cannot be secured. In the immediate area, there are no other windows that are functioning properly.

Missing/Deteriorated Caulking/Seals/Glazing Compound (Windows—Unit)

Deficiency: The caulk, seals or glazing compound that resists weather is missing or deteriorated.

Note:

1. This includes Thermopane and insulated windows that have failed.

2. Caulk and seals are considered to be deteriorated when 2 or more seals for any window have lost their elasticity. (If the seals crumble and flake when touched, they have lost their elasticity.)

Level of Deficiency:

Level 1: Most of the window shows missing or deteriorated caulk, seals and/or glazing compound but there is no evidence of damage to the window or surrounding structure.

Level 2: N/A

Level 3: There are missing or deteriorated caulk, seals and/or glazing compound with evidence of leaks or damage to the window or surrounding structure.

Peeling/Needs Paint (Windows—Unit)

Deficiency: Paint covering the window assembly or trim is cracking, flaking or otherwise failing.

Level of Deficiency:

Level 1: You see peeling paint or a window that needs paint.

Level 2: N/A

Level 3: N/A

Security Bars Prevent Egress (Windows—Unit)

Deficiency: Exiting or egress is severely limited or impossible because security bars are damaged or improperly constructed or installed. Security bars that are designed to open should open. If they do not open, record a deficiency.

Note: Inspector should verify that the security bars if opened do not activate an alarm that would alarm or summon outside authorities (police, etc.).

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Exiting or egress is severely limited or impossible, because security bars are damaged, improperly constructed/installed, or security bars that are designed to open cannot be readily opened.

Health and Safety Inspectable Items

Items to inspect for ''Health and Safety'' are as follows:

- Air Quality
- Electrical Hazards
- Elevator
- Emergency/Fire Exits
- Flammable Materials
- Garbage and Debris
- Hazards
- Infestation

Air Quality (Health and Safety)

Indoor/outdoor spaces must be free from high levels of sewer gas, fuel gas, mold, mildew or other harmful pollutants. Indoors must have adequate ventilation.

The following deficiencies can be noted:

- Mold and/or Mildew Observed
- Propane/Natural Gas/Methane Gas Detected
- Sewer Odor Detected

Mold and/or Mildew Observed (Air Quality—Health and Safety)

Deficiency: You see mold or mildew or evidence of water infiltration or other moisture producing conditions.

Note: If the area has at least 1 square foot of mold or mildew, record it as a deficiency.

Propane/Natural Gas/Methane Gas Detected (Air Quality—Health and Safety)

Deficiency: You detect strong propane, natural gas, or methane gas odors that could:

—Pose a risk of explosion/fire.

—Pose a health risk if inhaled.

Sewer Odor Detected (Air Quality—Health and Safety)

Deficiency: You detect sewer odors.

Electrical Hazards (Health and Safety)

Any hazard that poses a risk of electrical fires, electrocution or spark/explosion.

The following deficiencies can be noted:

- Exposed Wires/Open Panels
- Water Leaks On or Near Electrical Equipment

Exposed Wires/Open Panels (Electrical Hazards—Health and Safety)

Deficiency: You see exposed bare wires or openings in electrical panels.

Note:

1. If the accompanying property representative has identified abandoned wiring, capped wires do not pose a risk and should not be recorded as a deficiency. They must be enclosed in a junction box as defined in Note 2, below.

2. If the capped wires are not properly enclosed in a junction box, record as a deficiency.

Water Leaks On or Near Electrical Equipment (Electrical Hazards—Health and Safety)

Deficiency: You see water leaking, puddling or ponding on or immediately near any electrical apparatus. This could pose a risk of fire, electrocution or explosion.

Elevator—Tripping (Health and Safety)

Vertical conveyance system for moving personnel, equipment, materials, household goods, etc.

Deficiency: An elevator is misaligned with the floor by more than 3/4 inch. The elevator does not level as it should, which causes a tripping hazard.

Emergency/Fire Exits (Health and Safety)

All buildings must have acceptable fire exits that are also properly marked and operational. This includes fire towers, stairway access doors and external exits. These can include operable windows on the lower floors with easy access to the ground or a back door opening onto a porch with a stairway leading to the ground.

Note: This does not apply to individual units.

The following deficiencies can be noted:

- Blocked/Unusable (Emergency/Fire Exits)
- Missing Exit Signs

Blocked/Unusable (Emergency/Fire Exits—Health and Safety)

Deficiency: The exit cannot be used or exit is limited because a door or window is nailed shut, a lock is broken, panic hardware is chained, debris, storage or other conditions.

Missing Exit Signs (Emergency/Fire Exits—Health and Safety)

Deficiency:

—Exit signs that clearly identify all emergency exits are missing.

-OR-

—There is no adjacent or other internal illumination in operation on or near the sign.

Flammable/Combustible Materials—Improperly Stored (Health and Safety)

Any substance that is either known to be combustible or flammable or is stored in a container identifying it as such.

Deficiency: Flammable materials or combustible materials are improperly stored near a heat or electrical source, causing the potential risk of fire or explosion.

Note: Flammable or combustible materials may include, but are not limited to, gasoline, paint thinners, kerosene, propane, paper, boxes, etc.

Garbage and Debris (Health and Safety)

Accumulation of garbage and debris exceeding the capacity of the storage area or not stored in an area sanctioned for such use.

The following deficiencies can be noted:

- Indoors
- Outdoors

Indoors (Garbage and Debris—Health and Safety)

Deficiency:

—Too much garbage has gathered, more than the planned storage capacity.

-OR-

—Garbage has gathered in an area that is not sanctioned for staging or storing garbage or debris.

Note: This does not include garbage and debris improperly stored outside. For this deficiency, see ''Outdoors (Garbage and Debris—Health and Safety).''

Outdoors (Garbage and Debris—Health and Safety)

Deficiency:

—Too much garbage has gathered; more than the planned storage capacity.

-OR-

—Garbage has gathered in an area not sanctioned for staging or storing garbage or debris.

Note: This does not include garbage improperly stored indoors. For this deficiency, see ''Indoors (Garbage and Debris—Health and Safety).''

Hazards (Health and Safety)

Physical hazards that pose risk of bodily injury.

The following deficiencies can be noted:

- Sharp Edges
- Tripping
- Other Hazards

Deficiency: If you see any general defects or hazards that pose risk of bodily injury, you must note them.

Sharp Edges (Hazards—Health and Safety)

Deficiency: You see any physical defect that could cause cutting or breaking human skin or other bodily harm, generally in commonly used or traveled areas.

Tripping (Hazards—Health and Safety)

Deficiency: You see any physical defect that poses a tripping risk, generally in walkways or other traveled areas. Typically, the defect must present at least a three-quarter inch deviation.

Note: This does not include tripping hazards from elevators that do not level properly. For this deficiency, see ''Elevator Tripping (Health and Safety).''

Other Hazards (Hazards—Health and Safety)

Note: ''Other'' includes hazards that are not specifically defined elsewhere.

Infestation (Health and Safety)

Presence of rats, or severe infestation by mice or insects such as roaches or termites.

The following deficiencies can be noted:

- Insects
- Rats/Mice/Vermin

Insects (Infestation—Health and Safety)

Deficiency: You see evidence of infestation of insects, including roaches and ants, throughout a unit or room, especially in food preparation and storage areas.

Note:

1. This does not include infestation from rats/mice. For this deficiency, see ''Rats/Mice/Vermin (Infestation—Health and Safety).''

2. If you see baits, traps, and sticky boards that show no presence of insects, do not record this as a deficiency.

Rats/Mice/Vermin (Infestation—Health and Safety)

Deficiency: You see evidence of rats or mice sightings, rat or mouse holes, or droppings.

Note:

1. This does not include infestation from insects. For this deficiency, see ''Insects (Infestation—Health and Safety).''

2. If you see baits, traps, or sticky boards that show no presence of vermin, do not record this as a deficiency.

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Part III

The President

Proclamation 8846—Honoring the Victims of the Tragedy in Oak Creek, Wisconsin

Proclamation 8847—National Health Center Week, 2012

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Presidential Documents

Title 3—

The President

Proclamation 8846 of August 6, 2012

Honoring the Victims of the Tragedy in Oak Creek, Wisconsin

By the President of the United States of America

A Proclamation

As a mark of respect for the victims of the senseless acts of violence perpetrated on August 5, 2012, in Oak Creek, Wisconsin, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, August 10, 2012. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of August, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

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Presidential Documents

Proclamation 8847 of August 6, 2012

National Health Center Week, 2012

By the President of the United States of America

A Proclamation

For nearly half a century, health centers have helped make primary care services available and affordable for millions of Americans. From coast to coast, they deliver critical support for patients by not only providing treatment for those in need, but also emphasizing preventive care that helps people lead healthier lives. During National Health Center Week, we recognize the professionals who power our Nation's health centers and renew our support for these essential health care resources.

Health centers play a key role in bringing vital health care services to 20 million Americans from all walks of life. They lift up rural and urban neighborhoods alike, extending community-based, patient-directed care to those who need it most. Through their work, health centers strengthen our health care system by helping reduce emergency room visits and easing health care burdens for families across America.

My Administration is working to empower health centers with the resources they need to provide comprehensive, high-quality care for more individuals. Thanks primarily to the Affordable Care Act and the American Recovery and Reinvestment Act, health centers are serving nearly 3 million additional patients. Last year, my Administration launched an initiative to support 500 health centers in 44 States as they seek to expand their ability to better coordinate patient care. This May, my Administration expanded on that progress by announcing Affordable Care Act funding that will support hundreds of renovation and construction projects at health centers nationwide.

As we continue to build a health care system ready to meet patients' needs today and tomorrow, health centers will remain an integral part of our communities and our country. This week, we celebrate their many contributions to our public health, and to providing more Americans with accessible, affordable health care.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim the week of August 5 through August 11, 2012, as National Health Center Week. I encourage all Americans to celebrate this week by visiting their local health center, meeting health center providers, and exploring the programs they offer to help keep families healthy.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of August, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

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