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WHEN: Tuesday, October 23, 2012
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
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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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1018; Directorate Identifier 2011–SW–052–AD; Amendment 39–17204; AD 2012–19–09]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model EC 155B, EC155B1, SA–365N1, AS–365N2 and AS 365 N3 helicopters to require visually inspecting the tail rotor hub (TRH) for a crack and removing the TRH if a crack exists. This AD is prompted by reports of cracks on two TRHs. These actions are intended to prevent the tail rotor from jamming, which could lead to reduced or loss of control of the helicopter.

DATES: This AD becomes effective October 10, 2012.

We must receive comments on this AD by November 26, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov*. Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aviation Safety Engineer, Standards Staff, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone 817–222–5328; email *robert.grant@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Discussion

We are adopting a new AD for Eurocopter EC 155B, EC155B1, SA–365N1, AS–365N2 and AS 365 N3 helicopters. Eurocopter reported that a technician found cracks on the TRH during an inspection of a Model AS–365 helicopter equipped with a 10-blade TRH. This AD requires repetitive visual inspections of the TRH for a crack. Eurocopter initially required a visual inspection of the TRH every 110 hours, but reduced that requirement to 55 flight hours after cracks were found on a second hub. Eurocopter is investigating the cause of the cracks.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2011–0144, dated July 26, 2011, to correct this unsafe condition for Eurocopter Model EC 155B, EC155B1, SA–365N1, AS–365N2 and AS 365 N3 helicopters. EASA states that if a TRH crack is not detected and corrected, the tail rotor could jam, leading to a reduction or loss of control of the helicopter. Pending further investigation, the EASA AD requires repetitive inspections of the TRH every 55 flight hours. EASA considers the actions in its AD to be interim measures and expects further AD actions will follow.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

Related Service Information

Following the report of cracks found on the TRH of a Model AS–365 helicopter, Eurocopter issued Alert Service Bulletin (ASB) No. EC 155–05A021, Revision 0, dated April 11, 2011, for Model EC 155B and EC155B1 helicopters, and ASB No. AS365–

05.00.60, Revision 0, dated April 11, 2011, for Model SA–365N1, AS–365N2 and AS 365 N3 and some military helicopters. After a second report of TRH cracks, the ASBs were revised, dated July 20, 2011, to mandate and reduce the repetitive inspection interval from 110 flight hours to 55 flight hours.

The ASBs call for visually inspecting the TRH for cracks and, if cracks are found, removing the TRH. EASA classified these ASBs as mandatory and issued AD No. 2011–0144 to ensure the continued airworthiness of these helicopters.

AD Requirements

This AD requires visually inspecting the TRH for a crack within 55 hours time in service (TIS) and, if a crack exists, removing the TRH from service. This inspection must be repeated at intervals not to exceed 55 hours TIS.

Interim Action

We consider this AD to be an interim action because Eurocopter is investigating the cause of TRH cracks. If a final action is later identified, we might consider additional rulemaking.

Costs of Compliance

We estimate that this AD will affect 34 helicopters of U.S. Registry and that labor costs will average $85 a work-hour. We expect that it will take 1 work-hour to visually inspect the TRH for a crack, and that helicopters will average 5 inspections per year. Thus, we estimate a total annual cost of $425 per helicopter, and $14,450 for the U.S. operator fleet.

FAA's Justification and Determination of the Effective Date

Providing an opportunity for public comments prior to adopting these AD requirements would delay implementing the safety actions needed to correct this known unsafe condition. Therefore, we find that the risk to the flying public justifies waiving notice and comment prior to the adoption of this rule, because the required corrective actions must be accomplished within 55 hours TIS, a very short time period based on the average utilization rate of the highest usage helicopter model.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–19–09 Eurocopter Helicopters: Amendment 39–17204; Docket No. FAA–2012–1018; Directorate Identifier 2011–SW–052–AD.

(a) Applicability

This AD applies to Eurocopter Model EC 155B, EC155B1, SA–365N1, AS–365N2 and AS 365 N3 helicopters, with a tail rotor hub (TRH) part number 365A33351100, 365A33351101, or 365A33351102 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in the TRH that could lead to a tail rotor jam, and subsequent reduced or loss of control of the helicopter.

(c) Effective Date

This AD becomes effective October 10, 2012.

(d) Compliance

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

(e) Required Actions

(1) Within 55 hours time-in-service (TIS), and thereafter at intervals not to exceed 55 hours TIS, using a light, visually inspect the TRH for a crack in the entire area shown as Area C of the TRH (a) in Figure 1 to paragraph (e)(1) of this AD. The inspection area is on the tail gearbox (TGB) side of the TRH. The TGB is shown as (c) in Figures 2 and 3 to paragraph (e)(1) of this AD. You must pay particular attention to the area around the screws, shown as (e) in Figure 3 to paragraph (e)(1) of this AD, and the TRH between the lower part of the TGB and its fairing, shown as (d) in Figures 2 and 3 to paragraph (e)(1) of this AD, using details D and E of Figure 3 to paragraph (e)(1) of this AD. You must turn the tail rotor by hand to inspect the entire Area C.

BILLING CODE 4910–13–P

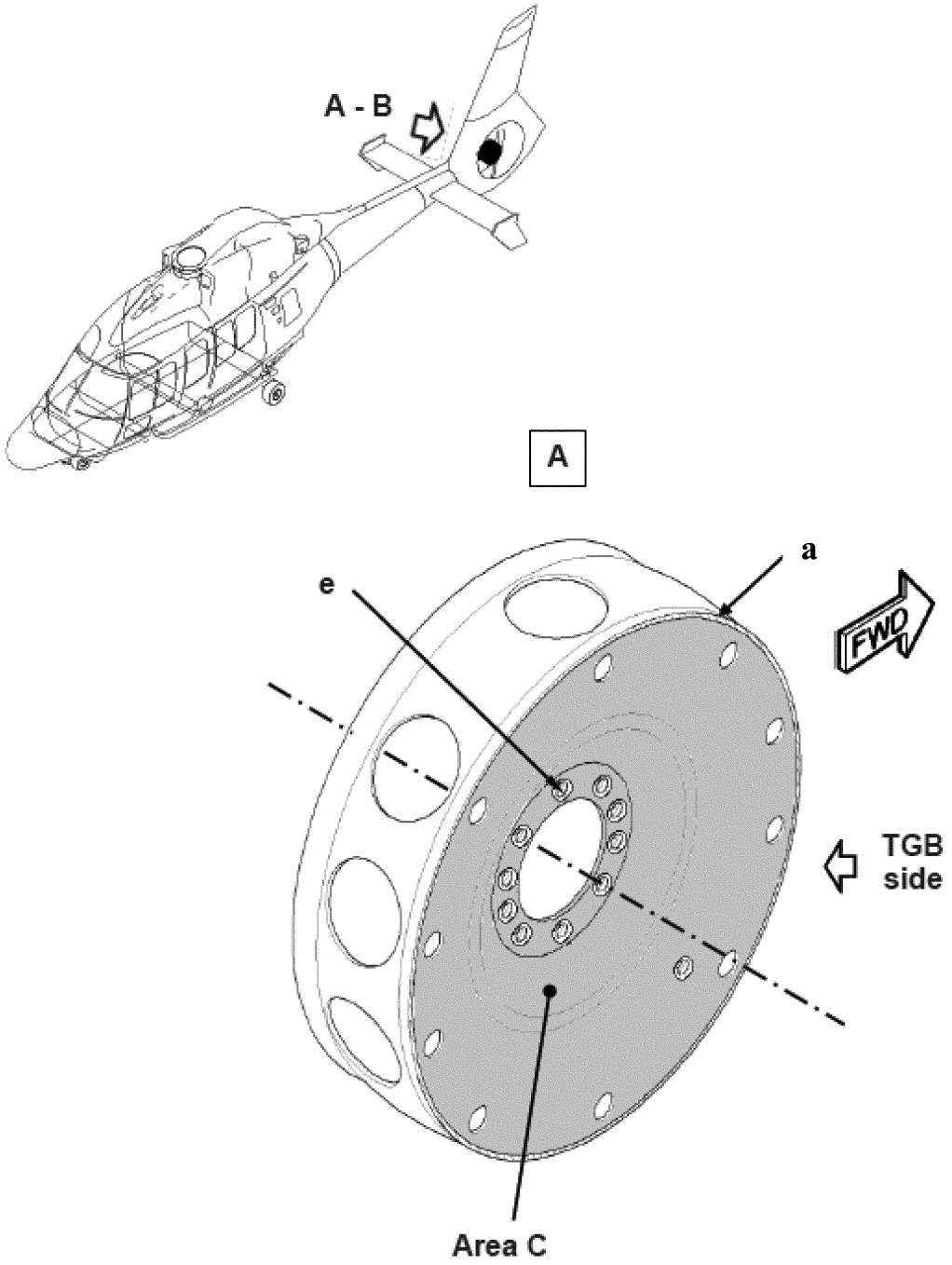

Figure 1 to Paragraph (e)(1) TRH Hub

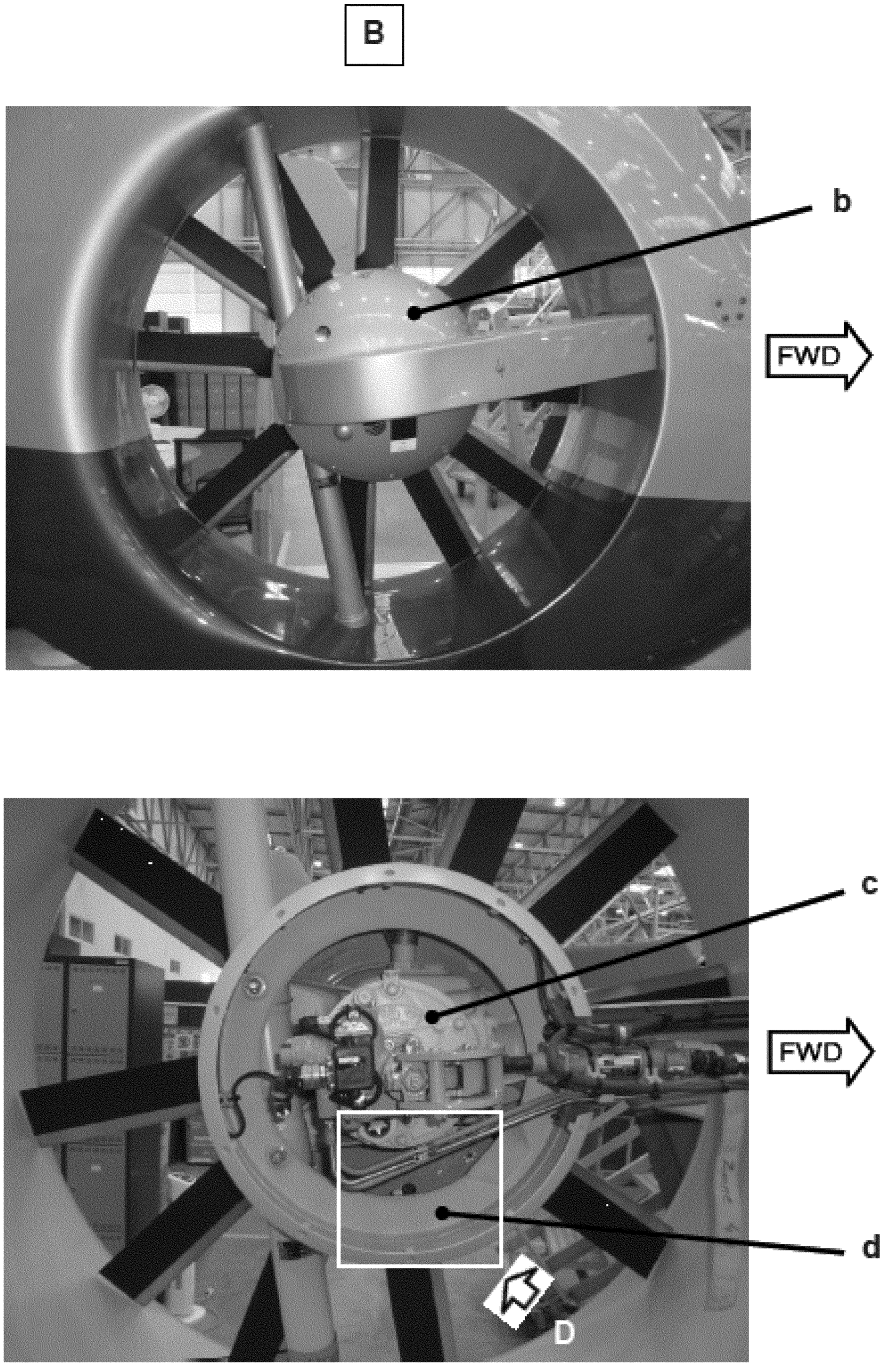

Figure 2 to Paragraph (e)(1) Location of the area to be inspected (Area C)

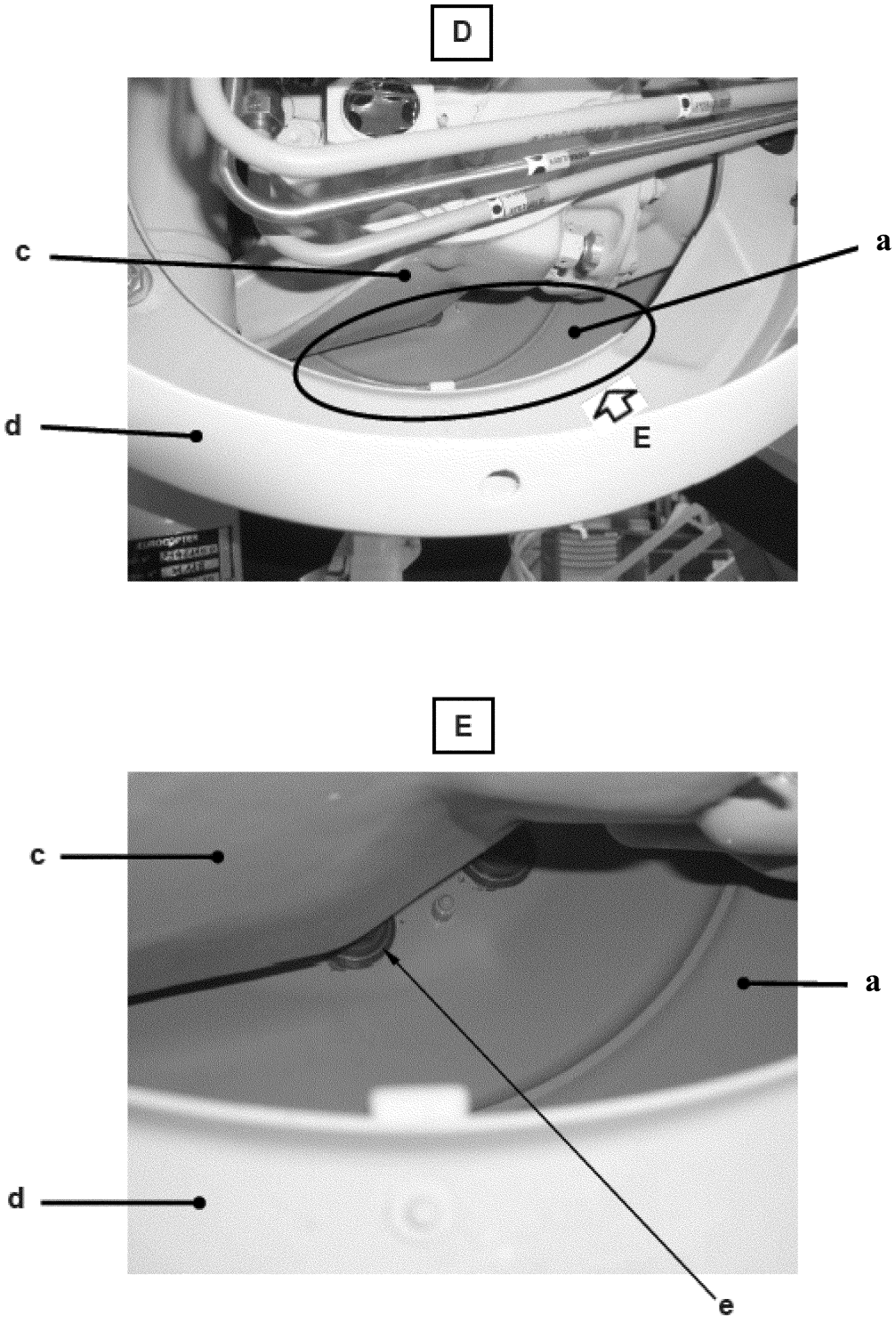

Figure 3 to Paragraph (e)(1) Visual Inspection of Area C

(2) If there is a crack on the TRH, remove the TRH from service.

(f) Special Flight Permits

No special flight permits will be permitted.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Standards Staff, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone 817–222–5328; email *robert.grant@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or

certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Eurocopter Alert Service Bulletin (ASB) No. AS365–05.00.60, Revision 1, dated July 20, 2011, and Eurocopter ASB No. EC 155–05A021, Revision 1, dated July 20, 2011, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub*. You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2011–0144, dated July 26, 2011.

(i) Subject

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

Issued in Fort Worth, Texas, on September 14, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–23448 Filed 9–24–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 660

[Docket No. 120614172–2395–01]

RIN 0648–BC29

Fisheries Off West Coast States; West Coast Salmon Fisheries; Announcing OMB Approval of Information Collection

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

ACTION: Final rule; effective date of OMB control numbers.

SUMMARY: This rule provides notice of the approval by the Office of Management and Budget (OMB) and resulting effectiveness of the collection-of-information requirements published by NMFS on July 2, 1996. OMB approved the collection-of-information requirements in April 2001, and extended that approval in September 2001, November 2004, April 2008, and July 2011.

DATES: The amendments in this rule are effective October 25, 2012. The collection-of-information requirements in § 660.404, published on July 2, 1996 (61 FR 34570), are effective October 25, 2012. OMB approves the collection-of-information requirements in § 660.408, published on July 2, 1996 (61 FR 34570), as of October 25, 2012.

ADDRESSES: This final rule is also accessible on the Web site of NMFS' Northwest Region (*http://www.nwr.noaa.gov*). Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Peggy Mundy, Northwest Region Salmon Management Division, NMFS, 206–526–4323.

SUPPLEMENTARY INFORMATION: NMFS published a final rule on July 2, 1996 (61 FR 34570) that consolidated several parts of the Code of Federal Regulations (CFR) into a new CFR part 660 containing regulations for implementing management measures for fisheries operating in the exclusive economic zone (EEZ) off West Coast states. This new part 660 included a collection of information associated with recordkeeping and reporting requirements regulations at § 660.404 and § 660.408(o). This collection was previously associated with regulations at § 661.4 and § 661.20, under OMB control number 0648–0222. The 1996 rule stated that OMB approval under control number 0648–0222 had expired and that NMFS was in the process of obtaining OMB approval for the collection of information under the new regulations.

This final rule announces OMB approval and effectiveness of the collection of information associated with regulations at § 660.404 and § 660.408(o). Initial approval of these regulations in their current location in the Code of Federal regulations occurred on April 25, 2001 under OMB control number 048–0433. OMB extended this approval on September 28, 2001, November 29, 2004, April 8, 2008, and July 8, 2011. The current approval expires on July 31, 2014.

Classification

This rule makes effective a collection of information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0648–433. Based on the management regime specified each year, designated regulatory areas in the commercial ocean salmon fishery off the coasts of Washington, Oregon, and California may be managed by numerical quotas. To accurately assess catches relative to quota attainment during the fishing season, catch data by regulatory area must be collected in a timely manner. The requirements to land salmon within specific time frames and in specific areas may be implemented in the preseason regulations to aid in timely and accurate catch accounting for a regulatory area. State landing systems normally gather the data at the time of landing. If unsafe weather conditions or mechanical problems prevent compliance with landing requirements, fishermen need an alternative to allow for a safe response. Fishermen would be exempt from landing requirements if the appropriate notifications are made to provide the name of the vessel, the port where delivery will be made, the approximate amount of salmon (by species) on board, and the estimated time of arrival. These reports are generally made via at-sea radio, cellular phone transmissions, or other electronic communication. The annual reporting burden to the public is estimated at 10 hours, based on an estimated 15 minutes per response.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity for public comment for this action because notice and comment would be unnecessary and contrary to the public interest. This action simply provides notice of OMB's approval of the reporting requirements at issue, which has already occurred, and renders those requirements effective. Thus this action does not involve any further exercise of agency discretion and no comment received at this time would impact any decision by NOAA or OMB. In addition, the public has had the opportunity to comment on both the substance of the reporting requirements, at the time NOAA adopted them, and on NOAA's requests for extension of OMB's approval. The reporting requirements at issue were detailed in proposed rules on which NOAA accepted public comment. The reporting provisions in 50 CFR 660.404(a) were initially published at 49 FR 32414–01 (August 14, 1984), with comments accepted until September 21, 1984, and published as a final rule at 49 FR 43679–02 (October 31, 1984). The

reporting provisions in 50 CFR 660.408(o) and 50 CFR 660.404 were initially published at 54 FR 11976–01 (March 23, 1989), with comments accepted until April 5, 1989, prior to publication of the final rule at 54 FR 19185–01 (May 4, 1989). NOAA published notice of and requested public comments on its requests for OMB's approval of the information collection and prior to each extension of OMB's approval (*e.g.,* 66 FR 17147, March 29, 2001; 66 FR 28731, May 24, 2001; 69 FR 35331, June 24, 2004; 72 FR 33204, June 15, 2007; 76 FR 329, January 4, 2011). NOAA received no comments on the 2011 request for extension. An additional opportunity for public comment at this point would not be meaningful, and would be duplicative.

Because prior notice and opportunity for public comment are not required for this rule by 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.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects

15 CFR Part 902

Recordkeeping and reporting requirements.

50 CFR Part 660

Fisheries off west coast States.

Dated: September 11, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, Performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 660 are amended as follows:

Title 15

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) under ''50 CFR'' is amended by removing the entries for 661.4 and 661.20, and by adding entries for 660.404 and 660.408 in numerical order to read as follows:

§ 902.1 OMB Control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) Display.

CFR part or section where the information collection requirement is located	Current OMB control number (All numbers begin with 0648–)
* * * * * * *	*
50 CFR	
* * * * * * *	*
660.404	–0433
660.408	–0433
* * * * * * *	*

PART 660—FISHERIES OFF WEST COAST STATES

■ 3. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 773 *et seq.*

§ 660.404 [Amended]

■ 4. The collection-of-information requirements in § 660.404, published on July 2, 1996 (61 FR 34570), are effective October 25, 2012.

[FR Doc. 2012–22737 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 102

[CBP Dec. 12–15]

Technical Corrections Relating to the Rules of Origin for Goods Imported Under the NAFTA and for Textile and Apparel Products

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule; technical corrections.

SUMMARY: This document sets forth technical corrections to part 102 of the U.S. Customs and Border Protection (CBP) regulations to reflect recent changes in the Harmonized Tariff Schedule of the United States. The affected provisions in part 102 of title 19 of the Code of Federal Regulations which are based in part on specified changes in tariff classification, comprise a codified system used for determining the country of origin of goods imported under the North American Free Trade Agreement (NAFTA), determining whether an imported good is a new or different article of commerce under the United States-Morocco Free Trade Agreement and the United States-Bahrain Free Trade Agreement, and for the country of origin of textile and apparel products (other than those of Israel).

DATES: This final rule is effective on September 25, 2012.

FOR FURTHER INFORMATION CONTACT: Tamar Anolic, Tariff Classification and Marking Branch, Regulations and Rulings, Office of International Trade, (202) 325–0036.

SUPPLEMENTARY INFORMATION:

Background

Section 102.20 of Title 19 of the CBP regulations (19 CFR 102.20) prescribes the tariff shift rules that are used to determine whether a good is considered a good of a NAFTA country (United States, Canada or Mexico). These tariff shift rules also determine whether an imported good is a new or different article of commerce under the United

States-Morocco Free Trade Agreement and the United States-Bahrain Free Trade Agreement. Section 102.21 provides the rules of origin relating to trade in textile and apparel products, other than those that are products of Israel.

Need for Correction

Pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (codified at 19 U.S.C. 3005), the International Trade Commission (ITC) is required to keep the Harmonized Tariff Schedule of the United States (HTSUS) under continuous review and prepare investigations proposing modifications to the HTSUS to the President. In February 2010, the ITC issued Investigation No. 1205–7, Proposed Modifications to the Harmonized Tariff Schedule of the United States, Publication No. 8771. The modifications proposed in the report were effective on February 3, 2012, pursuant to Presidential Proclamation 8771 which was published in the **Federal Register** on January 4, 2012 (77 FR 413).

As a result of the 2012 modifications to the HTSUS, certain tariff provisions have been added or removed, and certain goods have been transferred, for tariff classification purposes, to different or newly-created tariff provisions. The changes to the HTSUS involve product coverage and/or numbering of certain headings and subheadings and are not intended to have any other substantive effect. Accordingly, this document makes technical corrections to §§ 102.20 and 102.21 in order for the regulations to conform the tariff shift rules to the current version of the HTSUS. In addition, this document also corrects typographical errors in certain subheadings of Chapter 90 that occurred when the regulations were updated for the 2007 HTSUS.

The examples set forth below illustrate the need for the technical corrections to §§ 102.20 and 102.21 described above.

Example 1: Pursuant to the existing terms of § 102.20(o), the tariff shift rule for subheading 8479.90, HTSUS, permits a tariff shift ''to subheading 8479.90 from any other heading, except from heading 8501 when resulting from a simple assembly.'' Prior to the 2012 amendments to the HTSUS, parts of water-jet cutting machines were classified in subheading 8479.90, HTSUS, and therefore was subject to the above tariff shift rule. This rule was satisfied when any good classified outside heading 8479, except goods classified in heading 8501, HTSUS, that resulted from a simple assembly, were processed into parts of water-jet cutting machines of subheading 8479.90, HTSUS. Under the 2012 amendments to the HTSUS, however, parts of water-jet cutting machines moved from subheading 8479.90, HTSUS, to heading 8466, HTSUS, a different heading. As a result, parts of water-jet cutting machines (now classified in heading 8466, HTSUS) would presently satisfy the tariff shift rule set forth above, when it would not have satisfied it in its prior classification. In order to maintain the original result of the tariff shift rule for 8479.90, HTSUS, the tariff shift rule in § 102.20(o) must be amended to provide for ''A change to subheading 8479.90 from any other heading, except from heading 8501 when resulting from a simple assembly and except from parts of water-jet cutting machines of heading 8466.''

Example 2: Under the 2012 amendments to the HTSUS, a heading was created at 3826, HTSUS, to provide for ''biodiesel and mixtures thereof, not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals.'' Prior to the 2012 amendments, these products were classified in the basket ''other'' provision under subheading 3824.90, HTSUS. As new heading 3826, HTSUS, is not included in the rules set forth in § 102.20(f), it is not possible to determine the origin of goods classifiable under this provision using the current regulations. Accordingly, § 102.20(f) must be amended in order to add heading 3826, HTSUS, and a new tariff shift rule added; furthermore, the tariff shift rule for subheading 3824.90 must be updated to reflect the shift in goods to the new heading 3826, HTSUS. It should be noted that these technical corrections to § 102.20(f) will produce the same result as when biodiesel and mixtures thereof, not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals were classified under subheading 3824.90, HTSUS, in the 2011 HTSUS.

Example 3: Under current § 102.20(d), there is a rule for subheadings 2009.41 through 2009.80, HTSUS. Under the 2012 amendments to the HTSUS, subheading 2009.80, HTSUS, which covers ''Juice of any other single fruit or vegetable,'' was deleted, with the goods moving to subheadings 2009.81 and 2009.89. As a result, the tariff shift rule for heading 2009.41–2009.80, HTSUS, has been renumbered to reflect that subheading 2009.80, HTSUS, was deleted, and reflect the new range of tariff subheadings. Thus the new rules provides for ''A change to subheading 2009.41 through 2009.89 from any other chapter.''

Example 4: Under current § 102.20(d), there is a rule for subheadings 9031.41 through 9031.49, HTSUS. When this rule was updated in 2008 following changes to the 2007 HTSUS, it included references to subheadings 9030.41 through 9030.49, HTSUS, which are incorrect because no such subheadings exists in the tariff schedule. As a result, the 2012 technical update corrects the rule for subheadings 9031.41 through 9031.49, HTSUS. Please note that this change to subheading numbers is being made solely to correct typographical errors and does not reflect any updates to the 2012 HTSUS.

Inapplicability of Notice and Delayed Effective Date

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), CBP has determined that it would be impracticable and contrary to the public interest to delay publication of this rule in final form pending an opportunity for public comment and that there is good cause for this final rule to become effective immediately upon publication. The technical corrections contained in this document merely conform the tariff shift rules in the regulations to the current HTSUS and will facilitate trade by ensuring that country of origin determinations made using the regulations are consistent with the HTSUS.

Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12866

These amendments do not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Signing Authority

While the subject matter of this document pertains to the authority of the Secretary of the Treasury to approve regulations relating to certain revenue functions (see 19 CFR Part 0), CBP retains authority pursuant to Treasury Directive 28–01 to sign a document making nonsubstantive technical corrections to a previously issued regulation. For this reason, the CBP Commissioner is the proper official to sign this document.

List of Subjects in 19 CFR Part 102

Customs duties and inspections, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade agreements.

Amendments to the CBP Regulations

For the reasons set forth above, part 102 of title 19 of the Code of Federal Regulations (19 CFR part 102) is amended as set forth below:

PART 102—RULES OF ORIGIN

■ 1. The authority citation for part 102 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

■ 2. In § 102.20:

■ a. The table is amended by removing the entries for: ''0305.30'', ''0305.41–

0305.69'', ''2903.41–2903.49'', ''2903.51–2904.90'', ''2914.21–2914.22'', ''4808.20–4808.30'', ''6406.20–6406.99'', ''6505.10'', ''6811.83'', ''8452.30–8452.40'', ''9007.11–9007.19'', ''9008.10–9008.40'', and ''9504.10–9506.29'';

■ b. The table is further amended by adding, in numerical order, entries for: ''0305.31–0305.39'', ''0305.41–0305.79'', ''0308'', ''2903.71–2903.79'', ''2903.81–2904.90'', ''2914.22'', ''3826.00'', ''4808.40'', ''6406.20–6406.90'', ''6505.00'', ''8452.30'', ''9007.10'', ''9008.50'', ''9504.20–9506.29'', and ''9619.00'';

■ c. The table is further amended by revising the entries in the ''Tariff shift and/or other requirements'' column adjacent to the ''HTSUS'' column listing for: ''0306'', ''0307'', ''1601–1605'', ''2009.41–2009.80'', ''2826.12–2833.19'', ''2835.29–2835.39'', ''2842.10'', ''2848'', ''2849.10–2849.90'', ''2850'', ''2852'', ''2933.11–2934.99'', ''2937–2941'', ''3002.10–3002.90'', ''3201.10–3202.90'', ''3501.10–3501.90'', ''3502.20–3502.90'', ''3503–3504'', ''3808.99'', ''3824.71–3824.90'', ''3901–3915'', ''3922–3926'', ''4817–4822'', ''7411–7418'', ''8425.11–8430.69'', ''8452.90'', ''8456.10–8456.90'', ''8466.10–8466.94'', ''8479.10–8479.89'', ''8479.90'', ''8507.10–8507.80'', ''9031.41- 9031.49'' and ''9608.10–9608.40''.

The additions and revisions read as follows:

§ 102.20 Specific rules by tariff classification.

* * * * *

HTSUS	Tariff shift and/or other requirements
*	* * * * * *
0305.31–0305.39	A change to subheading 0305.31 through 0305.39 from any other subheading outside that group, except from fillets of heading 0304.
0305.41–0305.79	A change to subheading 0305.41 through 0305.79 from any other chapter.
0306	A change to heading 0306, other than a change to smoked goods of heading 0306, from any other chapter; or A change to smoked goods of heading 0306 from other goods of chapter 3 or from any other chapter, except from chapter 16; or A change to any good of heading 0306 from a smoked good of heading 0306.
0307	A change to heading 0307, other than a change to smoked goods of heading 0307, from any other chapter; or A change to edible meals and flours from within chapter 3; or A change to smoked goods of heading 0307 from other goods of chapter 3 or from any other chapter, except from chapter 16; or A change to any good of heading 0307 from a smoked good of heading 0307.
0308	A change to heading 0308, other than a change to smoked goods of heading 0308, from any other chapter; or A change to edible meals and flours from within chapter 3; or A change to smoked goods of heading 0308 from any other good of chapter 3 or from any other chapter, except from chapter 16; or A change to any good of heading 0308 from a smoked good of heading 0308.
*	* * * * * *
1601–1605	A change to heading 1601 through 1605 from any other chapter, except from smoked products of heading 0306 through 0308.
*	* * * * * *
2009.41–2009.80	A change to subheading 2009.41 through 2009.89 from any other chapter.
*	* * * * * *
2826.12–2833.19	A change to fluorides of ammonium or of sodium of subheading 2826.19 from any other good of subheading 2826.19 or from any other subheading; or A change to any other good of subheading 2826.19 from fluorides of ammonium or of sodium of subheading 2826.19 or from any other subheading; or A change to fluorosilicates of sodium or of potassium of subheading 2826.90 from any other good of subheading 2826.90 or from any other subheading; or A change to any other good of subheading 2826.90 from fluorosilicates of sodium or of potassium of subheading 2826.90 or from any other subheading; or A change to chlorides of iron of subheading 2827.39 from any other good of subheading 2827.39 or from any other subheading; or A change to chlorides of cobalt of subheading 2827.39 from any other good of subheading 2827.39 or from any other subheading; or A change to chlorides of zinc of subheading 2827.39 from any other good of subheading 2827.39 or from any other subheading; or A change to any other good of subheading 2827.39 from chlorides of iron, of cobalt, or of zinc of subheading 2827.39 or from any other subheading; or A change to zinc sulphide of subheading 2830.90 from any other good of subheading 2830.90 or from any other subheading; or A change to cadmium sulphide of subheading 2830.90 from any other good of subheading 2830.90 or from any other subheading; or A change to any other good of subheading 2830.90 from zinc sulphide or cadmium sulphide of subheading 2830.90 or from any other subheading; or A change to subheading 2826.12 through 2833.19 from any other subheading, including another subheading within that group, except for a change from sulphides and polysulphides, of subheading 2852.90 to subheading 2830.90.
*	* * * * * *
2835.29–2835.39	A change to phosphates of trisodium of subheading 2835.29 from any other good of subheading 2835.29 or from any other subheading; or A change to any other good of subheading 2835.29 from phosphates of trisodium of subheading 2835.29 or from any other subheading; or A change to subheading 2835.29 through 2835.39 from any other subheading, including another subheading within that group, except for a change from phosphinates (hypophosphites), phosphonates (phosphites) and phosphates, and polyphosphates of subheading 2852.90 to subheading 2835.39.

HTSUS	Tariff shift and/or other requirements
*	* * * * * * *
2842.10	A change to subheading 2842.10 from any other subheading, except for a change from double or complex silicates, including aluminosilicates, of subheading 2852.90 to subheading 2842.10.
*	* * * * * * *
2848	A change to heading 2848 from any other heading, except for a change from phosphides, excluding ferrophosphorus, of subheading 2852.90.
2849.10–2849.90	A change to subheading 2849.10 through 2849.90 from any other subheading, including another subheading within that group, except for a change from carbides of 2852.90.
2850	A change to heading 2850 from any other heading, except for a change from hydrides, nitrides, azides, silicides, and borides (other than compounds which are also carbides of heading 28.49) of subheading 2852.90.
2852	A change to other metal oxides, hydroxides or peroxides of heading 2852 from any other good of heading 2852 or from any other heading, provided that the good is the product of a ''chemical reaction'', as defined in Note 1, except from subheading 2825.90; or A change to other fluorides of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2826.19; or A change to other chlorides of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2827.39; or A change to other bromides or to bromide oxides from any other good of heading 2852 or from any other heading, except from subheading 2827.59; or A change to iodides or to iodide oxides of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2827.60; or A change to other chlorates of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2829.19; or A change to other perchlorates, bromotes, perbromates, iodates or periodates of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2829.90; or A change to other sulphides or polysulphides, whether or not chemically defined, of heading 2852 from any other good of heading 2852 (except for sulphides or polysulphides of subheading 2852.90) or from any other heading, except from subheading 2830.90; or A change to other sulfates of heading 2852 from any other good of heading 2852 or from any other heading, except from heading 2520 or from subheading 2833.29; or A change to other nitrates of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2834.29; or A change to other phosphates from any other good of heading 2852 or from any other heading, except from subheading 2835.29; or A change to polyphosphates other than those of sodium triphosphate (sodium tripolyphosphate) of subheading 2852.90 from any other good of heading 2852 or from any other heading, except from subheading 2835.39; or A change to other cyanides or to cyanide oxides of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2837.19; or A change to complex cyanides of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2837.20; or A change to fulminates, cyanates or thiocyanates of heading 2852 from any other good of heading 2852 or from any other heading; or A change to any other good of subheading 2852.90 from fulminates, cyanates, and thiocyanates of subheading 2852.90 or from any other subheading, provided that the good classified in subheading 2852.90 is the product of a ''chemical reaction'' as defined in Note 1; or A change to other chromates, dichromates or peroxochromates of heading 2852 from any other good of heading 2852 or any other heading, except from heading 2610, or from subheading 2841.50; or A change to double or complex silicates, including aluminosilicates, of subheading 2852.90 from any other good of heading 2852 or from any other heading, except from subheading 2842.10; or A change to other salts of inorganic acids or to peroxoacids, other than azides, of heading 2852 from any other good of heading 2852 or from any other heading, provided that the good classified in heading 2852 is the product of a ''chemical reaction'' as defined in Note 1, except from subheading 2842.90; or A change to other silver compounds of heading 2852 from any other good of heading 2852 or from any other heading, except from subheading 2843.29; or A change to phosphides, excluding ferrophosphorus, of subheading 2852.90 from any other good of heading 2852 or any other heading, except from heading 2848; or A change to carbides of 2852.90 from any other good of heading 2852 or any other heading, except from subheading 2849.90; or A change to hydrides, nitrides, azides, silicides and borides, other than compounds which are also carbides of heading 2849, of subheading 2852.90 from any other good of heading 2852 or any other heading, except from heading 2850; or A change to derivatives containing only sulpho groups, their salts and esters from any other good of heading 2852 or from any other heading, except from heading 2908; or A change to palmitic acid, stearic acid, their salts or their esters from any other good of heading 2852 or from any other heading, except from subheading 2915.70; or A change to oleic, linolenic or linolenic acids, their salts or their esters from any other good of heading 2852 or from any other heading, except from subheading 2916.15; or A change to benzoic acid, its salts or its esters from any other good of heading 2852 or from any other heading, except from subheading 3301.90 or subheading 2916.31; or A change to lactic acid, its salts or its esters from any other good of heading 2852 or from any other heading, except 2918.11; or

HTSUS	Tariff shift and/or other requirements
	A change to other organo-inorganic compounds of heading 2852 from any other good of heading 2852 or from any other heading, except from heading 2931; or A change to nucleic acids and their salts or other heterocyclic compounds of subheading 2852.90 from any other good of heading 2852 or any other heading, except from subheading 2934.99; or A change to tanning extracts of vegetable origin or tannins and their salts, ethers, esters, and other derivatives of 2852.90 from any other good of heading 2852 or any other heading, except from subheading 3201.90; or A change to caseinate and other casein derivatives or casein glues of subheading 2852.90 from any other good of heading 2852 or any other heading, except from subheading 3501.90; or A change to albumins, albuminates, and other albumin derivatives of subheading 2852.90 from any other good of heading 2852 or any other heading, except from subheading 3502.90; or A change to peptones and their derivatives, other protein substances and their derivatives, not elsewhere specified or included, or hide powder of subheading 2852.90 from any other good of heading 2852 or any other heading, except from heading 3504; or A change to naphthenic acids, their water-insoluble salts, or their esters of subheading 2852.90 from any other good of heading 2852 or any other heading; or A change to prepared binders for foundry moulds or cores or chemical products and preparations of the chemical or allied industries of subheading 2852.90 from naphthenic acids, their water-insoluble salts, or their esters of subheading 2852.90 or any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 3824.71, or 3824.73 through 3824.79; or A change to prepared binders for foundry moulds or cores or chemical products and preparations of the chemical or allied industries of subheading 2852.90 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound.
*	* * * * * * *
2903.71–2903.79	A change to subheading 2903.71 through 2903.79 from any other subheading outside that group.
2903.81–2904.90	A change to aldrin (ISO), chlordane (ISO) or heptachlor (ISO) of subheading 2903.82 from any other subheading, except from subheading 2903.89; or A change to any other good of subheading 2903.89 from any other subheading, except from subheading 2903.82; or A change to subheading 2903.81 through 2904.90 from any other subheading within that group.
*	* * * * * * *
2914.22	A change to subheading 2914.22 from any other subheading, including another subheading within that group.
*	* * * * * * *
2933.11–2934.99	2933.11–2934.99: A change to subheading 2933.11 through 2934.99 from any other subheading, including another subheading within that group, except for a change to subheading 2933.29 from heterocyclic compounds with nitrogen hetero-atom(s) only of subheading 3002.10 and except for a change to subheading 2934.99 from nucleic acids and their salts or other heterocyclic compounds of subheading 2852.90 or subheading 3002.10.
*	* * * * * * *
2937–2941	A change to heading 2937 through 2941 from any other heading, including another heading within that group, except a change to concentrates of poppy straw of subheading 2939.11 from poppy straw extract of subheading 1302.19 and except for a change to subheading 2937.90 from other hormones, prostagladins, thromboxanes and leukotrienes, natural or reproduced by synthesis, derivatives and structural analogues thereof, including chain modified polypeptides, used primarily as hormones of subheading 3002.10.
*	* * * * * * *
3002.10–3002.90	A change to subheading 3002.10 through 3002.90 from any other subheading including another subheading within that group, except a change from subheading 3006.92; or A change to imines and their derivatives, and salts thereof, other than chlordimeform (ISO) of subheading 3002.10 from any other subheading, except subheadings 2925.21 through 2925.29; or A change to compounds containing an unfused imidazole ring (whether or not hydrogenated) in the structure of subheading 3002.10 from any other subheading, except from subheading 2933.29; or A change to nucleic acids and their salts or other heterocyclic compounds (other than those classified in subheadings 2934.10 through 2934.91) of subheading 3002.10 from any other subheading, except from subheading 2934.99; or A change to hormones, prostaglandins, thromboxanes and leukotrienes, natural or reproduced by synthesis or derivatives, and structural analogues thereof, including chain modified polypeptides, used primarily as hormones (other than those classified in subheadings 2937.11 through 2937.50) of subheading 3002.10 from any other heading, except from heading 2937; or A change to other polyethers of subheading 3002.10 from any other heading, except from heading 3907, provided that the domestic polymer content is no less than 40 percent by weight of the total polymer count.
*	* * * * * * *
3201.10–3202.90	A change to subheading 3201.10 through 3202.90 from any other subheading, including another subheading within that group, except for a change to subheading 3201.90 from tanning extracts of vegetable origin or tannins and their salts, ethers, esters, and other derivatives, of subheading 2852.90.
*	* * * * * * *
3501.10–3501.90	A change to subheading 3501.10 through 3501.90 from any other subheading, including another subheading within that group, except for a change to subheading 3501.90 from caseinates and other casein derivatives or casein glues of subheading 2852.90.

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3502.20–3502.90	A change to subheading 3502.20 through 3502.90 from any other subheading, including another subheading within that group, except for a change to subheading 3502.90 from albumins (including concentrates of two or more whey proteins, containing by weight more than 80 percent whey proteins, calculated on the dry matter), albuminates, and other albumin derivatives of 2852.90.
3503–3504	A change to heading 3503 through 3504 from any other heading, including another heading within that group, except for a change to subheading 3504.00 from peptones and their derivatives or other protein substances and their derivatives or hide powder of 2852.90.
*	* * * * * * *
3808.99	A change to subheading 3808.99 from any other subheading, except from rodenticides or other pesticides classified in chapter 28 or 29 or subheading 3808.50; or A change to a mixture of subheading 3808.99 from any other subheading, provided that the mixture is made from two or more active ingredients and a domestic active ingredient constitutes no less than 40 percent by weight of the total active ingredients, except from rodenticides or other pesticides classified in chapter 28 or 29 or subheading 3808.50.
*	* * * * * * *
3824.71–3824.90	A change to subheading 3824.71 from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 3824.71 or from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound; or A change to other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included of subheading 3824.71 from any other good of subheading 3824.71 or from any other subheading, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 2852.90, 3824.73 through 3824.79, 3824.90, or 3826.00; or A change to subheading 3824.72 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.73 through 3824.79; or A change to other mixtures of halogenated hydrocarbons of subheading 3824.73 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 2852.90, 3824.71, or 3824.74 through 3824.79, 3824.90, or 3826.00; or A change to other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.73 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.72, or 3824.74 through 3824.79; or A change to other mixtures of halogenated hydrocarbons of subheading 3824.74 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 2852.90, 3824.71, 3824.73, 3824.75 through 3824.79, or 3826.00, and except from subheading 3824.90; or A change to other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.73 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.72, or 3824.74 through 3824.79; or A change to other mixtures of halogenated hydrocarbons of subheading 3824.74 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 2852.90, 3824.71, 3824.73, 3824.75 through 3824.79, or 3826.00, and except from subheading 3824.90; or A change to other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.74 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.72 through 3824.73 and subheading 3824.75 through 3824.79; or A change to subheading 3824.75 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 2852.90, 3824.71, 3824.73 through 3824.74, subheading 3824.76 through 3824.79, 3824.90, or 3826.00; or A change to subheading 3824.76 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 2852.90, 3824.71, 3824.73 through 3824.75, 3824.77 through 3824.79, 3824.90, or 3826.00; or

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	A change to subheading 3824.77 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 2852.90, 3824.71, 3824.73 through 3824.76, 3824.78 through 3824.79, 3824.90, or 3826.00; or A change to subheading 3824.78 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.72 through 3824.77 or 3824.79; or A change to mixtures of halogenated hydrocarbons of subheading 3824.79 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included of subheading 2852.90, 3824.71, 3824.73 through 3824.78, or 3826.00, and except from subheading 3824.90; or A change to other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.79 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other mixtures containing perhalogenated derivatives of acyclic hydrocarbons containing two or more different halogens of subheading 3824.72 through 3824.78; A change to naphthenic acids, their water-insoluble salts or their esters of subheading 3824.90 from any other good of subheading 3824.90 or from any other subheading; or A change to any other good of subheading 3824.90 from naphthenic acids, their water-insoluble salts or their esters of subheading 3824.90 or from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 3824.71, or 3824.73 through 3824.79; or A change to any other good of subheading 3824.71 through 3824.90 from any other subheading, including another subheading within that group, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound.
*	* * * * * * *
3826.00	A change to prepared binders for foundry moulds or cores or chemical products and preparations of the chemical or allied industries of subheading 3826.00 from naphthenic acids, their water-insoluble salts, or their esters of subheading 3826.00 or any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound, except from other chemical products or preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included, of subheading 3824.71, or 3824.73 through 3824.79; or A change to prepared binders for foundry moulds or cores or chemical products and preparations of the chemical or allied industries of subheading 3826.00 from any other subheading, provided that no more than 60 percent by weight of the good classified in this subheading is attributable to one substance or compound.
*	* * * * * * *
3901–3915	A change to heading 3901 through 3915 from any other heading, including another heading within that group, except a change to 3907 from other polyethers of subheading 3002.10, provided that the domestic polymer content is no less than 40 percent by weight of the total polymer content.
*	* * * * * * *
3922–3926	A change to heading 3922 through 3926 from any other subheading, including another heading within that group, except for a change to heading 3926 from articles of apparel and clothing accessories, other articles of plastics, or articles of other materials of headings 3901 to 3914 of heading 9619.
*	* * * * * * *
4808.40	A change to subheading 4808.40 from any other heading, except from heading 4804.
*	* * * * * * *
4817–4822	A change to heading 4817 through 4822 from any other heading, including another heading within that group, except for a change to heading 4818 from sanitary towels and tampons, napkin and napkin liners for babies, and similar sanitary articles, of paper pulp, paper, cellulose wadding, or webs of cellulose fibers, of heading 9619.
*	* * * * * * *
6406.20–6406.90	A change to subheading 6406.20 through 6406.90 from any other chapter.
6505.00	A change to hair-nets of subheading 6505.00 from any other subheading.
*	* * * * * * *
7411–7418	A change to cooking or heating apparatus of a kind used for domestic purposes, non-electric and parts thereof, of copper, of subheading 7418.10 from any other good of subheading 7418.10 or from any other subheading; or A change to any other good of subheading 7418.10 from cooking or heating apparatus of a kind used for domestic purposes, non-electric and parts thereof, of copper, of subheading 7418.10 or from any other subheading; or A change to any other good of heading 7411 through 7418 from any other heading, including another heading within that group.
*	* * * * * * *
8425.11–8430.69	A change to pit-head winding gears or to winches specially designed for use underground of subheading 8425.31 through 8425.39 from any other good of subheading 8425.31 through 8425.39 or from any other subheading; or

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	A change to any other good of subheading 8425.31 through 8425.39 from pit-head winding gears or to winches specially designed for use underground of subheading 8425.31 through 8425.39 from any other good of subheading 8425.31 through 8425.39 or from any other subheading; or A change to mine wagon pushers, locomotive or wagon traversers, wagon tippers and similar railway wagon handling equipment of subheading 8428.90 from any other good of subheading 8428.90 or from any other subheading; or A change to any other good of subheading 8428.90 from mine wagon pushers, locomotive or wagon traversers, wagon tippers and similar railway wagon handing equipment of subheading 8428.90 or from any other subheading; or A change to any other good of subheading 8425.11 through 8430.69 from any other subheading, including another subheading within that group, except for a change to subheading 8428.90 from passenger boarding bridges of subheadings 8479.71 or 8479.79.
* * * * * * *	
8452.30	A change to subheading 8452.30 from any other subheading.
8452.90	A change to goods of subheading 8452.90, other than a change to furniture, bases and covers for sewing machines, and parts thereof, from any other heading, except from heading 8501 when resulting from a simple assembly; or A change to furniture, bases and covers for sewing machines, and parts thereof from any other good of 8452.90 or from any other subheading.
* * * * * * *	
8456.10–8456.90	A change to subheading 8456.10 through 8456.90 from any other heading, other than a change to water-jet cutting machines of subheading 8456.90, except from machine-tools for dry-etching patterns on semiconductor materials of subheading 8486.20; or A change to water-jet cutting machines of subheading 8456.90 from any other good of subheading 8456.90 or from any other subheading, except from subheading 8479.89 or from subheading 8486.10 through 8486.40.
* * * * * * *	
8466.10–8466.94	A change to subheading 8466.10 through 8466.94, other than a change to parts of water-jet cutting machines of subheading 8466.93, from any other heading outside that group, except from heading 8501 when resulting from a simple assembly; or A change to parts of water-jet cutting machines of subheading 8466.93 from any other good of heading 8466 or from any other heading, except from heading 8479 or from heading 8501 when resulting from a simple assembly.
* * * * * * *	
8479.10–8479.89	A change to subheading 8479.10 through 8479.89, other than a change to passenger boarding bridges of subheading 8479.71 or 8479.79, from any other subheading, including another subheading within that group, except from subheading 8486.10 through 8486.40 and except for a change to 8479.89 from water-jet cutting machines of 8456.90; or A change to passenger boarding bridges of subheading 8479.71 or 8479.79 from any other subheading.
8479.90	A change to subheading 8479.90 from any other heading, except from heading 8501 when resulting from a simple assembly and except from parts of water-jet cutting machines of heading 8466.
* * * * * * *	
8507.10–8507.80	A change to subheading 8507.10 through 8507.80 from any other subheading, including another subheading within that group, except for a change to subheading 8507.80 from subheading 8507.50 or 8507.60.
* * * * * * *	
9007.10	A change to subheading 9007.10 from any other good of subheading 9007.10 or from any other subheading.
* * * * * * *	
9008.50	A change to subheading 9008.50 from any other good of subheading 9008.50 or from any other subheading.
* * * * * * *	
9031.41–9031.49	A change to profile projectors of subheading 9031.49 from any other good of subheading 9031.49 or from any other subheading; or A change to any other good of subheading 9031.49 from a profile projector of subheading 9031.49 or from any other subheading, except from subheading 9031.41; or A change to any other good of subheading 9031.41 through 9031.49 from any other subheading outside that group.
* * * * * * *	
9504.20–9506.29	A change to subheading 9504.20 through 9506.29 from any other subheading, including another subheading within that group.
* * * * * * *	
9608.10–9608.40	A change to subheading 9608.10 through 9608.40 from any other subheading, including another subheading within that group; or A change to India ink drawing pens of subheading 9608.30 from any other good of subheading 9608.30; or A change to any other good of subheading 9608.30 from India ink drawing pens of subheading 9608.30.
* * * * * * *	
9619.00	A change to a plastic good of subheading 9619.00 from any other heading, except from heading 3926; or A change to a paper good of subheading 9619.00 from any other heading, except from heading 4818.
* * * * * * *	

■ 3. In § 102.21:
■ a. Paragraph (b)(5) is amended by removing the reference to ''4202.92.05'';
■ b. Paragraph (b)(5) is further amended by adding, in numerical order, the reference to ''4202.92.04–08'';
■ c. The table in paragraph (e)(1) is amended by removing the entries for: ''4202.92.05'','', ''6210–6211'', ''6212'', ''6406.99.15'', and ''6505.90'','' ;
■ d. The table in paragraph (e)(1) is further amended by adding, in numerical order, entries for: ''4202.92–04–4202.92.08'', ''6210–6212'', ''6406.90.15'', ''6505.00'', and ''9619'';
■ e. The table in paragraph (e)(1) is further amended by revising the entries in the ''Tariff shift and/or other requirements'' column adjacent to the HTSUS'' column listing for: ''5601'', ''6101–6117'', ''6201–6208'', and ''6209.20.5045–6209.90.9000'''.

The additions and revisions read as follows:

§ 102.21 Textile and apparel products.

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(e) * * * (1) * * *

HTSUS	Tariff shift and/or other requirements
* * * * * * *	
4202.92.04–4202.92.08	A change to subheadings 4202.92.04 through 4202.92.08 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory or insular possession.
* * * * * * *	
5601	(1) A change to wadding of heading 5601 from any other heading, except from heading 5105, 5203, 5501 through 5507, and articles of wadding of heading 9619. (2) A change to flock, textile dust, mill neps, or articles of wadding, of heading 5601 from any other heading or from wadding of heading 5601.
* * * * * * *	
6101–6117	(1) If the good is not knit to shape and consists of two or more component parts, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to an assembled good of heading 6101 through 6117 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good is not knit to shape and does not consist of two or more component parts, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to heading 6101 through 6117 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, knitted or crocheted articles of heading 9619, and subheading 6307.90, and provided that the change is the result of a fabric-making process. (3) If the good is knit to shape, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to 6101 through 6117 from any heading outside that group, except from knitted or crocheted articles of heading 9619, provided that the knit to shape components are knit in a single country territory or insular possession.
6201–6208	(1) If the good consists of two or more component parts, a change to an assembled good of heading 6201 through 6208 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to heading 6201 through 6208 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6217, subheading 6307.90, and from an assembled women's or girls' singlet or other undershirt, brief, panty, negligee, bathrobe, dressing gown, or a similar article of heading 9619, and provided that the change is the result of a fabric-making process.
* * * * * * *	
6209.20.5045–6209.90.9000.	(1) If the good consists of two or more component parts, a change to an assembled good of subheading 6209.20.5045 through 6209.90.9000 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to subheading 6209.20.5045 through 6209.90.9000 from any heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6217, subheading 6307.90, and from babies' garments and clothing accessories of heading 9619, and provided that the change is the result of a fabric-making process.
* * * * * * *	
6210–6212	(1) If the good consists of two or more component parts, a change to an assembled good of heading 6210 through 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to heading 6210 through 6212 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, and 6217, subheading 6307.90, and from an assembled women's or girls' garment, made up of fabrics of heading 5602, 5603, 5903, 5906, or 5907, of heading 9619 or a girls', boys', men's, or women's garment, other than knitted or crocheted garments and other than a women's or girls' singlet or other undershirt, brief, panty, negligee, bathrobe, dressing gown, or a similar article from any other heading, provided that the change is the change is the result of a fabric-making process.

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6406.90.15	(1) If the good consists of two or more components, a change to subheading 6406.90.15 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to subheading 6406.90.15 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5608, 5801 through 5804, 5806, 5808 through 5810, 5903, 5906 through 5907, and 6001 through 6006, and provided that the change is the result of a fabric-making process.
* * * * * * *	
6505.00	(1) For felt hats and other felt headgear, made from the hat bodies, hoods or plateaux of heading 6501, whether or not lined or trimmed, if the good consists of two or more components, a change to subheading 6505.00 from any other good of subheading 6505.00 or from any other subheading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) For felt hats and other felt headgear, made from the hat bodies, hoods or plateaux of heading 6501, whether or not lined or trimmed, if the good does not consist of two or more components, a change to subheading 6505.00 from any other subheading, except from heading 5602, and provided that the change is the result of a fabric making process. (3) For any other good, if the good consists of two or more components, a change to goods of subheading 6505.00, other than hair-nets, from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (4) For any other good, if the good does not consist of two or more components, a change to goods of subheading 6505.00, other than hair-nets, from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5609, 5801 through 5804, 5806, 5808 through 5811, 5903, 5906 through 5907, and 6001 through 6006, and provided that the change is the result of a fabric-making process.
* * * * * * *	
9619	(1) A change to articles of wadding of heading 9619 from any other heading, except from heading 5105, 5203, 5501 through 5507, and from 5601; or (2) If the good is not knit to shape and consists of two or more component parts, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to an assembled knitted or crocheted article of heading 9619, from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession; or (3) If the good is not knit to shape and does not consist of two or more component parts, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to a knitted or crocheted article of heading 9619 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, 6101 through 6117; and subheading 6307.90, and provided that the change is the result of a fabric-making process; or (4) If the good is knit to shape, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to a knitted or crocheted article of heading 9619 from any other heading, except from heading 6101 through 6117, provided that the knit to shape components are knit in a single country, territory, or insular possession; or (5) If the good consists of two or more component parts, a change to an assembled women's or girls' singlet or other undershirt, brief, panty, negligee, bathrobe, dressing gown, or a similar article of heading 9619 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession; or (6) If the good does not consist of two or more component parts, a change to a women's or girls' singlet or other undershirt, brief, panty, negligee, bathrobe, dressing gown, or a similar article of heading 9619 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6201 through 6208, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process; or (7) The country of origin of a baby diaper of cotton classifiable in heading 9619 is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process; or (8) If the good consists of two or more component parts, a change to an assembled baby garment of synthetic fiber or artificial fiber of heading 9619 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession; or (9) If the good does not consist of two or more component parts, a change to a baby garment of synthetic fiber or artificial fiber of heading 9619 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6209, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process; or (10) If the good consists of two or more component parts, a change to an assembled women's or girls' garment, made up of fabrics of heading 5602, 5603, 5903, 5906, or 5907, of heading 9619 or a girls', boys', men's, or women's garment, other than knitted or crocheted garments and other than a women's or girls' singlet or other undershirt, brief, panty, negligee, bathrobe, dressing gown, or a similar article, from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession;

HTSUS	Tariff shift and/or other requirements
	(11) If the good does not consist of two or more component parts, a change to an assembled women's or girls' garment, made up of fabrics of heading 5602, 5603, 5903, 5906, or 5907, of heading 9619 or a girls', boys', men's, or women's garment, other than knitted or crocheted garments and other than a women's or girls' singlet or other undershirt, brief, panty, negligee, bathrobe, dressing gown, or a similar article from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6006, 6210 through 6212, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process; or (12) The country of origin of an other made up article of heading 9619 is the country, territory, or insular possession in which the woven fabric component of the good was formed by a fabric-making process.
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Dated: September 18, 2012.

David V. Aguilar,

Deputy Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2012–23499 Filed 9–24–12; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 524, 539, 577, 580, 581, 582, 583, 584, and 585

RIN 3141–AA47

Appeal Proceedings Before the Commission

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC or Commission) promulgates this final rule to enhance and clarify appeal proceedings before the Commission. This final rule removes three parts concerning appeals, and adds a new subchapter concerning appeal proceedings before the Commission.

This final rule has six parts. First, the *Rules of General Application in Appeal Proceedings Before the Commission* define certain terms, set forth the burden of proof and standard of review, explain the content of a Commission decision, uniformly provide for resolution of an appeal if the Commission does not issue a majority decision, and clarify that an appeal of the Chair's decision for matters other than disapproval of a gaming ordinance does not stay the effect of that decision. Next, the regulations set forth rules for motion practice in appeals before the Commission. This part addresses: How an entity other than a tribe can request to participate on a limited basis in ordinance appeals; how parties file motions to intervene, to supplement the record, and for reconsideration; and how parties file motions before the presiding official. Following these two general parts, the regulations set forth more specific rules for the different types of appeals. Rules for appeals of ordinance disapprovals, management contract approvals and disapprovals, appeals before a presiding official, and appeals before the Commission on written submission only, each have their own unique appellate procedures.

DATES: *Effective Date:* These rules are effective October 25, 2012. *Applicability Date:* These rules apply to all Notices of Appeal filed after October 25, 2012.

FOR FURTHER INFORMATION CONTACT: Maria Getoff, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005; email: *maria_getoff@nigc.gov;* telephone: 202–632–7003.

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 established the Commission and set out a comprehensive framework for the regulation of gaming on Indian lands.

The Act gives the Chair the ''authority to levy and collect appropriate civil fines, not to exceed $ 25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for any violation of any provision of [the Act], any regulation prescribed by the Commission pursuant to [the Act], or tribal regulations, ordinances, or resolutions approved under [the Act].'' 25 U.S.C. 2713(a). In addition, IGRA requires that the Commission, by regulation, provide an opportunity for an appeal and a hearing before the Commission on fines levied by the Chair. 25 U.S.C. 2713(a)(2). Tribes and management contractors also have a right to a hearing before the Commission to determine whether a temporary closure order issued by the Chair should be made permanent or dissolved. 25 U.S.C. 2713(b).

Rules for appeal proceedings before the Commission were previously found in three separate parts of this chapter: part 524 governing appeals of ordinance disapprovals; part 539 governing appeals of management contract approvals or disapprovals; and part 577 governing appeals of enforcement actions and actions to void an approved management contract. The purposes of this new subchapter are to consolidate all appellate procedures in one place for clarity and efficiency, and to improve the overall appellate process.

II. Previous Rulemaking Activity

On November 18, 2010, the National Indian Gaming Commission (NIGC or Commission) 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 that the NIGC should utilize to make revisions. 75 FR 70680, Nov. 18, 2012. On April 4, 2011, after holding eight consultations and reviewing all comments, the NIGC published a Notice of Regulatory Review Schedule setting out a consultation schedule and process for review. 76 FR 18457, April 4, 2011. Part 519 (Service), part 524 (Appeals), part 539 (Appeals), and part 577 (Appeals before the Commission) were included in this regulatory review. The Commission will address changes to part 519 (Service) in a separate rulemaking action because part 519 sets forth rules for service of actions and decisions by the Chair and therefore does not implicate the appellate review process.

The Commission conducted additional consultations in conjunction with its review of these parts. Tribal consultations were held in every region of the country and were attended by

tribal leaders or their representatives. In addition to the tribal consultations, on July 22, 2011, the Commission requested public comment on a Preliminary Draft of new Subchapter H. On January 31, 2012, the Commission published a Notice of Proposed Rulemaking, which proposed to create new Subchapter H (on February 16, 2012, the Commission published a Correction Notice to the NPRM which made several corrections to the preamble and regulatory text).

III. Review of Public Comments

In response to its Notice of Proposed Rulemaking, published on January 31, 2012, 77 FR 4720 (Correction Notice published on February 16, 2012, 77 FR 9179), the Commission received the following comments:

General Comments Applicable to the Entire Subchapter

Comment: Some commenters stated that they generally supported the creation of one subchapter on appeal proceedings, stating that these rules are much more accessible to the parties, provide certainty about the process, and appear to streamline and simplify the process. One of the commenters further stated that while these proposed rules will likely need refinement as they are implemented, they are a vast improvement to the current appeal proceeding rules. Two of the commenters stated that in the past, tribes have been held in limbo waiting for long periods of time for a decision on appeal, but that these rules address that concern by identifying clear timeframes for a decision.

Response: The Commission agrees that consolidating all appellate procedures into one subchapter provides greater clarity and efficiency, and that addressing certain issues that were not addressed in the prior regulations improves the overall appellate process.

Comment: A few commenters were concerned by what they deem to be the Commission's formal, overly rigid, and inflexible approach to hearing and deciding matters on appeal, which may burden the special government-to-government relationship between the Commission and tribes. One commenter was also concerned that the rules emphasize an adversarial appeals process. All three commenters suggested that the rules be re-drafted with a view towards a more informal and collaborative approach that gives due regard and respect for the sovereign authority of tribes, and encourages parties to reach an amicable resolution of a regulatory matter on appeal.

Response: The Commission understands the commenters' concerns that a rigid appeals process could impede a cooperative, government-to-government dialogue. However, the Commission had to consider how best to balance the desire for open, informal dialogue with the need to ensure that each tribe is afforded a fair, efficient, and transparent appellate process. Therefore, the Commission has elected not to adopt the suggested changes. The Commission believes, however, that the amendments improve a fair and efficient appellate process, accessible to all who choose to utilize it. Moreover, the Commission notes that nothing prevents the Commission and a party from reaching a mutually beneficial and amicable settlement of an administrative appeal.

Comment: Some commenters generally stated that the time periods for the filing of various motions and briefs in this subchapter are unreasonably short and should be re-examined for reasonableness, with the Commission taking into consideration the time-consuming, internal decision processes that tribal governments and tribal agencies must follow, as well as the resource constraints in obtaining timely legal services. All three commenters suggested that the filing deadlines be increased, with two commenters providing specific suggestions: (i) Filing deadlines for major decisions, such as whether to file a notice of appeal or motion for reconsideration, should be increased from 30 days to 60 days from the date of the Chair's decision; (ii) filing deadlines for appeal briefs should be increased from 15 days to 45 days after service of the record from the Commission; (iii) all other appellant responses should be increased from 10 days to 20 days after service of the submission; (iv) filing a motion to intervene by a third party should be increased from 10 days to 20 days; and (v) filing a reply brief in opposition to a motion to intervene should be increased from 5 days to 20 days. One commenter further stated that the suggested timeframes will help reduce the expense and inconvenience of processing numerous motions for extensions of time in the future.

Response: In light of these comments, the Commission reviewed the proposed filing deadlines and compared them with those of other federal agencies. In the interest of establishing and maintaining uniformity to the extent feasible with other appeals boards of the Department of the Interior's Office of Hearings and Appeals (OHA), such as the Interior Board of Indian Appeals (IBIA), the Commission modified certain deadlines, but not others, to be consistent with many of the OHA deadlines. Specifically:

(i) The Commission determined that the time period to file a notice of appeal or motion for reconsideration should remain at 30 days. This 30-day time period is consistent with the IBIA's deadline for the filing of notices of appeal.

(ii) The Commission modified the time period to file appeal briefs from 15 days to 30 days after service of the record, except for appeals before a presiding official, which shall remain at 10 days due to the short timeframe for commencing and completing the hearing. This 30-day time period is consistent with the IBIA's deadline for the filing of an appeal brief after the docketing of the appeal.

(iii) The Commission modified the time period to file a response or opposition brief from 10 days to 20 days, except for appeals before a presiding official, which shall remain at 10 days due to the short timeframe for commencing and completing the hearing.

(iv) The Commission determined that the time period to file motions to intervene or for limited participation shall remain at 10 days. The Commission believes that third party motions to intervene or participate should be made early in the appellate process so that the party that filed the appeal and the Commission know who is interested in participating in the appeal and the reasons why they are interested. Further, opposition briefs to such motions will remain at 10 days and reply briefs at 5 days. All parties benefit when the Commission makes a decision on these motions early in the appellate process. Finally, nothing prevents a third party from filing a motion for an extension of time to file either a motion to intervene or to participate, or a brief in opposition thereof.

(v) The Commission modified the time period to file objections to the presiding official's recommended decision from 10 days to 20 days, except that if the subject of the appeal is an order of temporary closure, the time period to file objections to the presiding official's recommended decision shall be 5 days due to the statutory timeframe for issuing decisions on temporary closure orders after the conclusion of the hearing; and

(vi) The Commission determined that the time period to file most reply briefs is modified from 5 or 10 days to 15 days, except for appeals before a presiding official, which shall remain at 5 days due to the short timeframe for commencing and completing the

hearing. This 15-day time period is consistent with the IBIA's deadline for the filing of reply briefs.

Comment: A few commenters stated that it is necessary for tribal governments to have knowledge of the facts underlying a decision before filing an appeal so that they can better assess the merits of the appeal in advance to make a fully informed decision of whether to appeal, and to be better equipped to prepare appeal briefs and motions. The commenters suggested that the appellants should have access to the full record prior to filing a notice of appeal in order to make a fully informed decision regarding whether or not to file a notice of appeal. To that end, one commenter recommended the addition of a generally applicable provision under which an appellant may request that the Commission disclose the record that formed the basis for an agency action before filing an appeal.

Response: The Commission disagrees. The Commission believes that it would be inefficient and a burden on agency resources to produce records for parties who have not appealed and may never appeal.

General Comments on Ex Parte Communications

In the Notice of Proposed Rulemaking, the Commission removed the *ex parte* communication prohibition rule, but nevertheless invited general comments on how to address *ex parte* communications.

Comment: Two commenters stated that a prohibition on *ex parte* communications should not serve as a barrier or impermissible restraint to the special government-to-government relationship between a tribal government and the Commission. Both commenters suggested that the prohibition on *ex parte* communications should only apply when the appeal proceeding involves both an appellant and an additional adverse party, other than the Chair, before a neutral arbiter. One commenter stated that it would be unreasonable for either the Chair or the tribal appellant to cease communicating with the Commission, and the other further stated that the lines of communication between tribal governments and the Commission should always remain open throughout the appeals process so that there is ample opportunity for the parties to engage in discussions, negotiations, and informal meetings.

Response: As set forth in the Notice of Proposed Rulemaking, the Commission explained that it removed the *ex parte* communication prohibition rule that appeared in the preliminary draft (circulated to tribes in advance of the NPRM) because several commenters expressed concern regarding the reach and application of the prohibition, as well as concerns that it could stifle otherwise lawful communications between the Commission and the tribes. Therefore, the prohibition is not part of these final rules. The Commission will consider issuing guidance on *ex parte* communications instead.

Comment: One commenter suggested that, should a prohibited *ex parte* communication occur, the Commission should allow for the preservation of the communication on the record and service on adverse parties, as well as an opportunity for the adverse party to respond to the communication on the record.

Response: While an explicit prohibition on *ex parte* communications is not part of the final rules, the Commission agrees with the commenter that, should a prohibited *ex parte* communication occur, the Commission will follow the practice of preserving the communication on the record and serving it on the opposing party, as well as providing an opportunity for the opposing party to respond to the communication on the record.

580.1 What definitions apply?

Comment: Two commenters suggested a clearer and more precise definition of ''presiding official'' that addresses, at a minimum, the requirement that the presiding official be neutral and free from the direct supervision or control of the Commission, so that appellants are afforded a fair hearing consistent with due process principles.

Response: The Commission agrees with the commenters and has modified the definition accordingly.

580.2 When may the Commission waive its procedural rules governing appellate proceedings before the Commission?

Comment: A few commenters stated that the Commission's standard for waiving its rules—''good cause'' and ''interest of justice''—are unnecessarily high and restrictive, albeit for different reasons. One commenter stated that tribal governments should not be required to show ''good cause'' if a waiver of the rules is necessary, but instead, the possibility of waiving the rules should always remain open as a viable option for every matter an appeal, and further stated that the Commission should remove the ''interest of justice'' standard. The second commenter noted that in no case may the time for filing a notice of appeal be extended and sees no principled reason for the Commission to bind itself and future Commissions to these rigid rules. The third commenter stated that the ''interest of justice'' standard seems inappropriate given the Commission's role as a civil regulatory agency, not a criminal enforcement agency. However, all three commenters suggested that waivers should be granted based on equitable considerations.

Response: In light of these comments, the Commission decided to define more clearly the standard to state ''if the ends of justice so require and if to do so does not substantially prejudice any party.'' This standard is in accordance with Supreme Court precedent regarding when an executive federal agency, regardless of whether it is a civil regulatory agency or a criminal enforcement agency, may exercise its discretion to relax or waive procedural rules that it adopted for the orderly transaction of business.

580.11 What if the Commission does not issue a majority decision?

Comment: Some commenters were concerned by the Commission's proposal to designate the Chair's decision as a final agency action in the absence of a majority decision by the Commission, as it results in the Chair being both the decision-maker of a matter and the exclusive adjudicator of whether or not his or her decision in that matter was correct. All three commenters stated that such an outcome deprives the appellant of his or her right to have a matter on appeal adjudicated by a fair and neutral decision-maker. Two commenters further stated that this result is contrary to what Congress intended in IGRA, and another commenter stated that such an outcome invites due process challenges. One of the commenters was disappointed by the decision to remove language that would have affirmed the presiding official's recommended decision as final agency action in the absence of a majority decision, and stated that it is patently unfair to favor the Chair's disputed decision over a recommended decision issued by a neutral arbiter. This commenter suggested that the Commission reinstate the provision allowing a presiding official's recommended decision to become a final agency action if the Commission is unable to reach a majority decision. Another commenter suggested that the Commission carefully consider the due process implications and draft this rule appropriately.

Response: IGRA mandates that Commission agency decisions shall be made or adopted by either the Chair or

the Commission as a whole, and not by a presiding official who has not been appointed to serve on the Commission and would not otherwise be accountable for such an agency decision. Therefore, the Commission is statutorily prohibited from making the recommended change.

In addition, the Commission explained in the preamble to the NPRM that it removed the provision allowing the presiding official's recommended decision to become final agency action in the absence of a Commission majority decision because the recommended decision is, by definition, a recommendation. Further, this provision already exists in the rules governing management contracts, and for consistency, the Commission determined to have the same provision apply to all appeals.

581.5 How do I file a motion to supplement the record?

Comment: One commenter suggested that the language in § 581.5 should be similar to the provision in § 584.8 of this subchapter with respect to supplementation of the record in proceedings before a presiding official.

Response: Regarding the suggested language change, § 584.8 of this subchapter governs hearings before a presiding official and provides that the parties may make additional submissions to the record after the hearing and before the presiding official closes the record. Presiding officials provide recommended decisions for the Commission's consideration, which the Commission either affirms or reverses, in whole or in part. It is essential that the Commission refrain from setting a closing date for the record similar to the provision in § 584.8 to ensure that the Commission considers all relevant evidence prior to issuing its final decision. The Commission thus declines to make the suggested language change.

Comment: To avoid substantial uncertainty regarding the amount of time available to a potential appellant to submit additional materials while the record is still open, one commenter suggested that this section be revised to provide clarity as to when the record is deemed closed for the Commission to begin their decision-making process.

Response: Regarding the timing of the closing of the record, the Commission states that the record is open until the Commission issues a final agency decision because it is paramount that the Commission, the final arbiter, makes its decision on as complete a record as possible.

581.6 How do I file a motion for reconsideration?

Comment: Some commenters had concerns about the ''extraordinary circumstances'' standard for granting a motion for reconsideration. One commenter stated that the rule implies that motions for reconsideration will be considered rare exceptions rather than the norm. Another commenter stated that such a high and relatively unattainable standard for reconsiderations is contrary to the overall objective of the appeals process, which should be to achieve an amicable resolution of a regulatory issue, and should not be adversarial. One commenter stated that this standard unnecessarily restricts a tribe's ability to work with the Commission in reaching an agreeable solution after a final decision has been issued and another commenter stated that this standard hinders opportunities for the Commission to continue the dialogue with an appellant tribe after a final decision has been issued. All three commenters suggested that the Commission remove the ''extraordinary circumstances'' standard to ensure that any party can file a motion for reconsideration without limitation as to the circumstances giving rise to the motion.

Response: The Commission agrees in part, and disagrees in part. In federal courts, motions for reconsideration are ''disfavored'' and are granted only to correct manifest errors in law or fact or to present newly discovered evidence. Other federal executive agencies have also codified these legal standards into their regulations. For example, the U.S. Merit Systems Protection Board will grant a petition for review of an appellate decision only when a party has established that: ''(1) [n]ew and material evidence is available that, despite due diligence, was not available when the record closed; or (2) [t]he decision of the judge is based on an erroneous interpretation of statute or regulation.'' 5 CFR 1201.115. Therefore, the Commission disagrees that parties should be able to file motions for reconsideration without any limitation.

Nonetheless, in light of the comments received, the Commission has removed the term ''extraordinary circumstances'' and replaced it with defined legal standards. As noted above, these standards are based on both federal court practice and that of other federal executive agencies. A moving party must meet any one of these three standards for a motion for reconsideration to be sustained.

Further, administrative appeals are a form of litigation and are adversarial. Nothing, however, prevents the Chair and a party from reaching a mutually beneficial settlement of an administrative appeal.

Comment: One commenter stated that the 30-day timeframe for filing a motion for reconsideration may be problematic because the Commission fails to take into account the long-term and ongoing nature of some enforcement matters such as civil fine assessments, the payment of which may be made in installments over time. The commenter suggested that the proposed rule not limit the ability of the tribal government and the Commission to modify that dispute-specific relationship as new facts or arguments come to light, even after the 30-day timeframe has expired.

Response: The Commission considered this comment and concluded that the filing deadline for motions for reconsideration does not affect the imposition and ongoing payments of civil fine assessments. Once a civil fine has been appealed to the Commission, the Commission may, at any time after the appellate process has concluded and the civil fine has become final agency action, exercise its discretion to reconsider the continued payment and/or reduction of civil fine payments if a petition for such action is submitted to the Commission.

584.6 When will the hearing be held?

Comment: A commenter noted that there is a potential for an overlap between the time a presiding official is designated and the deadline for concluding the hearing in temporary closure order appeals. In the interest of ensuring that the presiding official can conduct a full and fair hearing, the commenter suggested that the timeframe for designating a presiding official should be much shorter for appeals involving temporary closure orders, requiring the Commission to appoint a presiding official within five to seven days after a timely notice of appeal is filed.

Response: Many of the presiding officials participating in Commission appeals are designated by the Department of the Interior's Office of Hearings and Appeals (OHA). When an appeal hearing concerns a temporary closure order, the Commission will request that OHA quickly designate a presiding official so that the appeal hearing may be commenced and concluded within the timeframes set forth in these rules.

Comment: A commenter requested clarification on whether there is any language that allows the parties or the

entity that is making the appeal to recommend or object to the selection of the presiding official, and suggested that parties should be given an opportunity to make recommendations or objections on the selection of the presiding official because certain individuals have very limited gaming experience.

Response: The Commission disagrees. Pursuant to other comments, the Commission has modified the definition of ''presiding official'' to state clearly that a presiding official ''shall not be under the direct control or supervision of the Commission, nor subject to influence by the Chair or the Commission.'' Similarly, the Commission believes that presiding officials should not be subject to the approval of parties to the appeal, regardless of the extent of their gaming experience.

584.8 What is the hearing process?

Comment: A commenter suggested that the Commission allow parties to supplement the record at any time prior to the issuance of the Commission's final decision.

Response: The Commission agrees. Parties may move to supplement the record under § 581.5, which provides that a party may file a motion for leave to submit additional evidence at any time prior to issuance of a final decision by the Commission.

The Commission has added two provisions to proposed § 584.8(c) that shorten filing deadlines in temporary closure order cases to comply with the statutory requirement that the Commission issue decisions in these cases within 60 days of the conclusion of a hearing. Thus, § 584.8(c) now provides that if the subject of the appeal is an order of temporary closure, the record will be kept open for a maximum of 10 days, rather than ''a reasonable period of time'' as provided for in all other matters. In addition, § 584.8(c) also now provides that in temporary closure order matters, the presiding official shall issue a recommended decision within 20 days after the record closes.

584.10 What is the process for pursuing settlement or a consent decree?

Comment: A few commenters stated that this rule could be construed as limiting the period during which parties to an appeal proceeding may pursue settlement or a consent decree once the ''five days before the date scheduled for hearing'' deadline has passed. These commenters thus suggested that this section be clarified to expressly allow parties to negotiate the terms of a potential settlement agreement at any time during the appeal proceeding.

Response: This rule is intended to set a time limit for the parties to move jointly to defer a hearing before a presiding official so that the parties may enter negotiations for a settlement. Parties may engage in settlement negotiations at all times; however, if the parties wish to defer a hearing before a presiding official to engage in settlement negotiations, they must do so at least five days before the date scheduled for hearing.

585.7 When will the Commission issue its decision?

The Commission changed § 585.7 to shorten the time within which it will issue its decision in temporary closure order matters from 60 days to 30 days. The temporary closure of a tribe's casino is a very serious consequence, and the Commission believes that such matters should be resolved expeditiously. In addition, if this timeframe is not shortened, then temporary closure order cases on written submission could take longer than temporary closure order cases that go to a hearing. Therefore, if the subject of the appeal is whether to dissolve or make permanent a temporary closure order, the Commission shall issue its decision within 30 days of the conclusion of briefing by the parties.

Regulatory Matters

Regulatory Flexibility Act

The 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.* 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 annual 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, or 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 U.S.-based 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 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 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 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 proposed 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

25 CFR Parts 524, 539, and 577

Administrative practice and procedure, Gambling, Indian-lands, Reporting and recordkeeping requirements.

25 CFR Parts 580, 581, 582, 583, 584, and 585

Appeals, Gambling, Indian-lands.

For the reasons stated in the preamble, and under the authority of the Indian Gaming Regulatory Act, 25 U.S.C. 2701–2712, the Commission removes 25 CFR parts 524, 539, and 577, and adds subchapter H, consisting of parts 580 through 585, to 25 CFR chapter III as follows:

PART 524—[REMOVED]

■ 1. Remove part 524.

PART 539—[REMOVED]

■ 2. Remove part 539.

PART 577—[REMOVED]

■ 3. Remove part 577.

■ 4. Add subchapter H, consisting of parts 580 through 585 to read as follows:

Subchapter H—Appeal Proceedings Before the Commission

PART 580—RULES OF GENERAL APPLICATION IN APPEAL PROCEEDINGS BEFORE THE COMMISSION
PART 581—MOTIONS IN APPEAL PROCEEDINGS BEFORE THE COMMISSION
PART 582—APPEALS OF DISAPPROVALS OF GAMING ORDINANCES, RESOLUTIONS, OR AMENDMENTS
PART 583—APPEALS FROM APPROVALS OR DISAPPROVALS OF MANAGEMENT CONTRACTS OR AMENDMENTS TO MANAGEMENT CONTRACTS
PART 584—APPEALS BEFORE A PRESIDING OFFICIAL OF NOTICES OF VIOLATION, PROPOSED CIVIL FINE ASSESSMENTS, ORDERS OF TEMPORARY CLOSURE, THE CHAIR'S DECISIONS TO VOID OR MODIFY MANAGEMENT CONTRACTS, THE COMMISSION'S PROPOSALS TO REMOVE A CERTIFICATE OF SELF-REGULATION, AND NOTICES OF LATE FEES AND LATE FEE ASSESSMENTS
PART 585—APPEALS TO THE COMMISSION ON WRITTEN SUBMISSIONS OF NOTICES OF VIOLATION, PROPOSED CIVIL FINE ASSESSMENTS, ORDERS OF TEMPORARY CLOSURE, THE CHAIR'S DECISIONS TO VOID OR MODIFY MANAGEMENT CONTRACTS, THE COMMISSION'S PROPOSALS TO REMOVE A CERTIFICATE OF SELF-REGULATION, AND NOTICES OF LATE FEES AND LATE FEE ASSESSMENTS

PART 580—RULES OF GENERAL APPLICATION IN APPEAL PROCEEDINGS BEFORE THE COMMISSION

Sec.

580.1 What definitions apply?
580.2 When may the Commission waive its procedural rules governing appellate proceedings before the Commission?
580.3 Who may appear before the Commission?
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580.5 What happens if I file late or fail to file?
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580.9 What is the effective date of the Commission's final decision?
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580.11 What if the Commission does not issue a majority decision?
580.12 Does an appeal of a Chair's decision stay the effect of that decision?

Authority: 25 U.S.C. 2706, 2713, 2715.

§ 580.1 What definitions apply?

The following definitions apply to this subchapter:

Day: A calendar day.

De novo review: A standard of review where the Commission reviews the matter anew, as if it had not been reviewed by the Chair.

Limited participant: A party who successfully petitions the Commission to participate on a limited basis in an ordinance appeal under § 582.5 of this subchapter.

Preponderance of the evidence: The degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.

Presiding official: The individual who presides over the hearing and issues the recommended decision under part 584. This individual shall not be under the direct control or supervision of the Commission, nor subject to influence by the Chair or the Commission.

Proceeding: All or part of an appeal heard by a presiding official or the Commission, and decided by the Commission.

Summary proceeding: Ordinance appeals and management contract and amendment appeals are summary proceedings.

§ 580.2 When may the Commission waive its procedural rules governing appellate proceedings before the Commission?

The procedural provisions of parts 580 through 585 of this subchapter may be waived, in whole or in part, to promote the orderly conduct of business on motion to the Commission or on its own motion, if the ends of justice so require and if to do so does not substantially prejudice any party, except that the Commission may not extend the time for filing a notice of appeal.

§ 580.3 Who may appear before the Commission?

In any appellate proceeding under parts 582 through 585 of this subchapter, a party or limited participant may appear in person or by an attorney or other authorized representative. An attorney must be in good standing and admitted to practice before any Court of the United States, the District of Columbia, any tribal court, or the highest court of any state, territory, or possession of the United States. Any person appearing as an attorney or authorized representative shall file with the Commission a written notice of appearance. The notice must state his or her name, address, telephone number, facsimile number, email address, if any, and the name and address of the person or entity on whose behalf he or she appears.

§ 580.4 How do I effect service?

(a) An appellant shall serve its notice of appeal on the Commission at the address indicated in the decision or notice that is the subject of the appeal.

(b) Copies of the notice of appeal shall be filed personally or by registered or certified mail, return receipt requested. All subsequent documents shall be served personally, by facsimile, by email to an address designated by a Commission employee, or by first class mail. In matters where a hearing has been requested, all filings shall be made with the Commission until a presiding official is designated and the parties are so notified, after which all filings shall be made with the presiding official.

(c) All documents filed after the notice of appeal shall be served on the Commission and copies concurrently served on all parties, intervenors, or limited participants.

(d) Service of copies of all documents is complete at the time of personal service or, if service is made by mail, facsimile, or email, upon transmittal.

(e) When a representative (including an attorney) has entered an appearance for a party, limited participant, or intervenor in a proceeding initiated under any provision of parts 582 through 585 of this subchapter, service thereafter shall be made upon the representative.

(f) The Commission may extend the time for filing or serving any document, except a notice of appeal.

(1) A request for an extension of time must be filed within the time originally allowed for filing.

(2) For good cause, the Commission may grant an extension of time on its own motion.

(g) Rules governing service of documents by the Chair or Commission are governed by part 519 of this chapter.

§ 580.5 What happens if I file late or fail to file?

(a) Failure to file an appeal within the time provided shall result in a waiver of the right to appeal.

(b) Failure to meet any deadline for the filing of any motion or response thereto shall result in a waiver of the right to file.

§ 580.6 How is time computed?

In computing any period of time prescribed for filing and serving a document, the first day of the period so computed shall not be included. The last day shall be included unless it falls on a Saturday, Sunday, or Federal legal holiday, in which case the period shall run until the end of the next business day. Except for appeals of temporary closure orders, when the period of time

prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal federal holidays shall be excluded in the computation.

§ 580.7 What is the burden of proof and standard of review?

(a) The Chair bears the burden of proof to support his or her action or decision by a preponderance of the evidence.

(b) The Commission shall review the Chair's actions or decisions de novo.

§ 580.8 What will the Commission's final decision contain?

The Commission may affirm, modify, or reverse, in whole or in part, the Chair's decision or the presiding official's recommended decision, or may remove a certificate of self-regulation, and will state the bases of its decision. The final decision will be in writing and will include:

(a) A statement of findings and conclusions, with the bases for them on all material issues of fact, law, or discretion;

(b) A ruling on each material issue; and

(c) An appropriate grant or denial of relief.

§ 580.9 What is the effective date of the Commission's final decision?

The Commission's final decision is effective immediately unless the Commission provides otherwise in the decision.

§ 580.10 Is the Commission's decision a final agency action?

The Commission's final decision is a final agency action for purposes of judicial review.

§ 580.11 What if the Commission does not issue a majority decision?

In the absence of a decision of a majority of the Commission within the time provided, the Chair's decision shall constitute the final decision of the Commission, except that if the subject of the appeal is a temporary closure order, the order shall be dissolved.

§ 580.12 Does an appeal of a Chair's decision stay the effect of that decision?

Except as otherwise provided by NIGC regulations at 25 CFR 522.5 and 522.7, the filing of an appeal does not stay the effect of the Chair's decision. The appellant must comply with the Chair's decision pending the outcome of the appeal.

PART 581—MOTIONS IN APPEAL PROCEEDINGS BEFORE THE COMMISSION

Sec.

581.1 What is the scope of this part?
581.2 How does an entity other than a tribe request to participate on a limited basis in an ordinance appeal?
581.3 How do I file a motion to intervene in appeals?
581.4 How do I file a motion before a presiding official?
581.5 How do I file a motion to supplement the record?
581.6 How do I file a motion for reconsideration?

Authority: 25 U.S.C. 2706, 2713, 2715.

§ 581.1 What is the scope of this part?

(a) This part governs motion practice under:

(1) Part 582 of this subchapter relating to appeals of disapprovals of gaming ordinances, resolutions, or amendments;

(2) Part 583 of this subchapter relating to appeals of the approval or disapproval of management contracts or amendments to a management contract;

(3) Part 584 of this subchapter relating to appeals before a presiding official of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, and notices of late fees and late fee assessments; and

(4) Part 585 of this subchapter relating to appeals to the Commission on written submissions of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, and notices of late fees and late fee assessments.

(b) This part also governs motion practice in hearings under § 535.3 of this subchapter to review the Chair's decision to void or modify a management contract.

§ 581.2 How does an entity other than a tribe request to participate on a limited basis in an ordinance appeal?

Requests for limited participation in ordinance appeals are governed by § 582.5 of this subchapter.

§ 581.3 How do I file a motion to intervene in appeals?

Motions to intervene in appeals before a presiding official are governed by § 584.5 of this subchapter. Motions to intervene in appeals before the Commission are governed by § 585.5 of this subchapter.

§ 581.4 How do I file a motion before a presiding official?

Motion practice before a presiding official on appeals of notices of violation, orders of temporary closure, proposed civil fine assessments, the Chair's decisions to void or modify management contracts, the Commission's proposals to remove certificates of self-regulation, and notices of late fees and late fee assessments is governed by § 584.4 of this subchapter.

§ 581.5 How do I file a motion to supplement the record?

Upon its own motion or the motion of a party, the Commission may allow the submission of additional evidence. A party may file a motion for leave to submit additional evidence at any time prior to issuance of a final decision by the Commission. Such motion shall show with particularity that such additional evidence is material and that there were reasonable grounds for failure to previously submit such evidence. The Commission may adjust its time for issuing a final decision accordingly, unless the subject of the appeal is a temporary closure order.

§ 581.6 How do I file a motion for reconsideration?

(a) Motions for reconsideration may be made only for final decisions on appeal and will only be granted if a party can establish that:

(1) New and material evidence is now available that, despite the party's due diligence, was not available when the record closed;

(2) The final decision was based on an erroneous interpretation of law or there has been an intervening change in the controlling law; or

(3) A manifest injustice, clearly apparent or obvious on its face, will occur if the motion for reconsideration is not granted.

(b) A motion for reconsideration and accompanying brief shall be filed within 30 days of the date of the Commission's final decision and shall be served on all parties, limited participants, and intervenors, if any. A motion for reconsideration shall explain the circumstances requiring reconsideration.

(c) A party may file only one motion and accompanying brief for reconsideration.

(d) Opposition briefs shall be filed within 20 days after the motion is filed.

(e) A reply brief to the brief in opposition shall be filed within 15 days of service of the brief in opposition.

(f) The Commission shall issue a decision on reconsideration within 30

days of the filing of the reply brief or of the expiration of the time to file a reply brief, whichever is later. The Commission shall issue a brief statement of the reason(s) for its decision.

(g) If the Commission grants the motion, it may reverse or modify the decision, in whole or in part, from which reconsideration is sought or may remand to the Chair for further consideration.

(h) The filing of a motion for reconsideration will not stay the effect of any decision or order and will not affect the finality of any decision or order for purposes of judicial review, unless so ordered by the Commission.

PART 582—APPEALS OF DISAPPROVALS OF GAMING ORDINANCES, RESOLUTIONS, OR AMENDMENTS

Sec.

582.1 What does this part cover?
582.2 Who may appeal the disapproval of a gaming ordinance?
582.3 How do I appeal the disapproval of a gaming ordinance?
582.4 Are motions permitted?
582.5 How does an entity other than a tribe request to participate on a limited basis?
582.6 When will I receive a copy of the record on which the Chair relied?
582.7 When will the Commission issue its final decision?

Authority: 25 U.S.C. 2706, 2710, 2713, 2715.

§ 582.1 What does this part cover?

This part applies to appeals from the Chair's decision to disapprove a gaming ordinance, resolution, or amendment thereto under part 522 of this chapter.

§ 582.2 Who may appeal the disapproval of a gaming ordinance?

Only the tribe whose gaming ordinance, resolution, or amendment thereto is disapproved by the Chair may appeal.

§ 582.3 How do I appeal the disapproval of a gaming ordinance?

Within 30 days after the Chair serves his or her disapproval, the appellant must file with the Commission a notice of appeal. The notice of appeal must reference the decision from which the appeal is taken. Unless the Commission has extended the time for filing an appeal brief pursuant to § 580.4(f) of this subchapter, the appeal brief must be filed within 30 days of service of the record pursuant to § 582.6. The appeal brief shall state succinctly why the appellant believes the Chair's disapproval should be reversed and may include supporting documentation.

§ 582.4 Are motions permitted?

Ordinance appeals are summary proceedings. Only motions for extension of time under § 580.4(f) of this subchapter, motions for limited participation under § 582.5, motions to supplement the record under § 581.5 of this subchapter, and motions for reconsideration under § 581.6 of this subchapter, are permitted.

§ 582.5 How does an entity other than a tribe request to participate on a limited basis?

(a) An individual, whether acting on his or her own behalf or as an agent of an entity, or an entity other than the tribe identified in § 582.2, may request to participate in an appeal of an ordinance disapproval on a limited basis by filing a submission with the Commission within 10 days of the filing of the notice of appeal.

(b) The submission may contain supporting documentation, and shall state:

(1) The individual's or entity's property, financial, or other interest at stake in the proceeding; and

(2) The reason(s) why the Chair's decision should be upheld or reversed. The submission shall address the ordinance requirements under §§ 522.4, 522.5, 522.6, and 522.7 of this chapter.

(c) The submission shall be served concurrently on the tribe consistent with § 580.4 of this subchapter. Failure to properly serve the tribe may be a basis for denying limited participation.

(d) Within 10 days after service of the submission, any party to the appeal may file a brief and supporting material in response to the submission.

(e) Within 10 days of the filing of a response pursuant to paragraph (d) of this section, the Commission will notify the submitter in writing of its decision whether to accept and consider the submission and will state the basis for its decision, which it shall serve on the individual or entity and the tribe.

§ 582.6 When will I receive a copy of the record on which the Chair relied?

Within 10 days of the filing of a notice of appeal, or as soon thereafter as practicable, the record on which the Chair relied will be transmitted to the tribe.

§ 582.7 When will the Commission issue its final decision?

(a) Within 90 days after it receives the appeal brief or within 90 days of its ruling on a request for limited participation brought under § 582.5 or within 90 days of the conclusion of briefing by all parties, whichever is later, the Commission shall issue its final decision.

(b) The Commission shall notify the tribe and any limited participant of its final decision and the reason(s) supporting it.

PART 583—APPEALS FROM APPROVALS OR DISAPPROVALS OF MANAGEMENT CONTRACTS OR AMENDMENTS TO MANAGEMENT CONTRACTS

Sec.

583.1 What does this part cover?
583.2 Who may appeal the approval or disapproval of a management contract or amendment to a management contract?
583.3 How do I appeal the approval or disapproval of a management contract or amendment to a management contract?
583.4 Are motions permitted?
583.5 When will I receive a copy of the record on which the Chair relied?
583.6 When will the Commission issue its final decision?

Authority: 25 U.S.C. 2706, 2711, 2712, 2713, 2715.

§ 583.1 What does this part cover?

This part applies to appeals from the Chair's decision to approve or disapprove a management contract or amendment to a management contract under parts 533 and 535 of this chapter.

§ 583.2 Who may appeal the approval or disapproval of a management contract or amendment to a management contract?

Only a party to the management contract or amendment thereto approved or disapproved by the Chair may appeal.

§ 583.3 How do I appeal the approval or disapproval of a management contract or amendment to a management contract?

(a) Within 30 days after the Chair serves his or her determination, the appellant must file a notice of appeal with the Commission and serve it on all parties to the management contract. The notice of appeal must reference the decision from which the appeal is taken. Unless the Commission has extended the time for filing an appeal brief pursuant to § 580.4(f) of this subchapter, the appeal brief must be filed within 30 days of service of the record pursuant to § 583.5. The brief shall state succinctly why the appellant believes the Chair's approval or disapproval should be reversed and may include supporting documentation.

(b) Another party to the management contract may oppose the appeal by filing an opposition brief with the Commission within 20 days after service of the appellant's brief. The opposition brief shall state succinctly why the party believes the Chair's approval or disapproval should be upheld and may include supporting documentation.

(c) The appellant may file a reply brief within 15 days of service of the opposition brief.

§ 583.4 Are motions permitted?

Management contract and amendment appeals are summary proceedings. Only motions for an extension of time under § 580.4(f) of this subchapter, motions to supplement the record under § 581.5 of this subchapter, and motions for reconsideration under § 581.6 of this subchapter, are permitted.

§ 583.5 When will I receive a copy of the record on which the Chair relied?

Within 10 days of the filing of a notice of appeal, or as soon thereafter as practicable, the record will be transmitted to all parties.

§ 583.6 When will the Commission issue its final decision?

(a) The Commission shall issue its final decision within 90 days after service of the appeal brief or within 90 days after the conclusion of briefing by the parties, whichever is later.

(b) The Commission shall notify the tribe and management contractor of its final decision and the reason(s) supporting it.

PART 584—APPEALS BEFORE A PRESIDING OFFICIAL OF NOTICES OF VIOLATION, PROPOSED CIVIL FINE ASSESSMENTS, ORDERS OF TEMPORARY CLOSURE, THE CHAIR'S DECISIONS TO VOID OR MODIFY MANAGEMENT CONTRACTS, THE COMMISSION'S PROPOSALS TO REMOVE A CERTIFICATE OF SELF-REGULATION, AND NOTICES OF LATE FEES AND LATE FEE ASSESSMENTS

Sec.

584.1 What does this part cover?
584.2 Who may appeal?
584.3 How do I appeal a notice of violation, proposed civil fine assessment, order of temporary closure, the Chair's decision to void or modify a management contract, the Commission's proposal to remove a certificate of self-regulation, and a notice of late fees and late fee assessments?
584.4 Are motions permitted?
584.5 How do I file a motion to intervene?
584.6 When will the hearing be held?
584.7 When will I receive a copy of the record on which the Chair relied?
584.8 What is the hearing process?
584.9 How may I request to limit disclosure of confidential information?
584.10 What is the process for pursuing settlement or a consent decree?
584.11 Will the hearing be transcribed?
584.12 What happens after the hearing?
584.13 May I file an objection to the recommended decision?
584.14 When will the Commission issue its final decision?

Authority: 25 U.S.C. 2706, 2710, 2711, 2712, 2713, 2715, 2717.

§ 584.1 What does this part cover?

(a) This part applies to appeals of the following where the appellant elects a hearing before a presiding official:

(1) Violation(s) alleged in a notice of violation under § 573.3 of this chapter;

(2) Proposed civil fine assessments under part 575 of this chapter;

(3) Orders of temporary closure under § 573.4 of this chapter;

(4) The Chair's decision to void or modify a management contract under part 535 of this chapter subsequent to initial approval;

(5) The Commission's proposal to remove a certificate of self-regulation under part 518 of this chapter; and

(6) Late fee notifications and assessments under part 514 of this chapter.

(b) Appeals identified in paragraph (a) of this section brought directly before the Commission on the written record and without a hearing are filed pursuant to part 585 of this subchapter.

§ 584.2 Who may appeal?

(a) Appeals of notices of violation, proposed civil fine assessments, orders of temporary closure, proposals to remove certificates of self-regulation, and late fee notifications and assessments may only be brought by the tribe or the recipient of the action that is the subject of the appeal.

(b) Appeals of the Chair's decisions to void or modify a management contract after approval may only be brought by a party to the management contract.

§ 584.3 How do I appeal a notice of violation, proposed civil fine assessment, order of temporary closure, the Chair's decision to void or modify a management contract, the Commission's proposal to remove a certificate of self-regulation, and a notice of late fees and late fee assessments?

(a) Within 30 days after the Chair serves his or her action or decision, or the Commission serves its intent to remove a certificate of self-regulation, the appellant must file a notice of appeal with the Commission. The notice of appeal must reference the action or decision from which the appeal is taken.

(b) Within 10 days after filing the notice of appeal, the appellant shall file with the Commission:

(1) A list of the names of proposed witnesses who will present oral testimony at the hearing, the general nature of their expected testimony, and whether a closed hearing is requested and the reason(s) therefor; and

(2) A brief that states succinctly the relief sought and the ground(s) in support thereof, which may include supporting documentation and evidence in the form of affidavits.

(c) A party that has filed a notice of appeal may waive the right to an oral hearing before a presiding official and instead elect to have the matter determined by the Commission solely on the basis of written submissions. Appeals based on written submissions are governed by part 585 of this subchapter. If there is more than one party that has filed a notice of appeal, and any party that has filed a notice of appeal elects a hearing before a presiding official, the entire matter will proceed before a presiding official.

(d) The Chair may file a response brief and a list of the names of proposed witnesses who will present oral testimony at the hearing, the general nature of their expected testimony, and whether a closed hearing is requested and the reason(s) therefor, within 10 days after service of the appellate brief.

§ 584.4 Are motions permitted?

Yes. Motions to intervene under § 584.5 are permitted. Motions for an extension of time that are filed before the appointment of a presiding official shall be decided by the Commission. All other motions may be scheduled and heard at the discretion of the presiding official.

§ 584.5 How do I file a motion to intervene?

(a) An entity or an individual, whether acting on his or her own behalf or as an agent of another entity not permitted to appeal, may be permitted to participate as a party if the presiding official finds that:

(1) The final decision could directly and adversely affect it or the class it represents;

(2) The individual or entity may contribute materially to the disposition of the proceedings;

(3) The individual's or the entity's interest is not adequately represented by existing parties; and

(4) Intervention would not unfairly prejudice existing parties or delay resolution of the proceeding.

(b) A tribe with jurisdiction over the lands on which there is a gaming operation that is the subject of a proceeding under this part may intervene as a matter of right if the tribe is not already a party.

(c) A motion to intervene shall be submitted to the presiding official within 10 days of the notice of appeal. The motion shall be filed with the presiding official and served on each person who has been made a party at the time of filing. The motion shall state succinctly:

(1) The moving party's interest in the proceeding;

(2) How his or her participation as a party will contribute materially to the disposition of the proceeding;

(3) Who will appear for the moving party;

(4) The issues on which the moving party seeks to participate; and

(5) Whether the moving party seeks to present witnesses.

(d) Objections to the motion must be filed by any party within 10 days after service of the motion.

(e) A reply brief to the brief in opposition may be filed within 5 days of service of the brief in opposition.

(f) When motions to intervene are made by individuals or groups with common interests, the presiding official may request all such movants to designate a single representative, or he or she may recognize one or more movants.

(g) The presiding official shall give each movant and party written notice of his or her decision on the motion. For each motion granted, the presiding official shall provide a brief statement of the reason(s) for the decision. If the motion is denied, the presiding official shall briefly state the ground(s) for denial. The presiding official may allow the movant to participate as *amicus curiae,* if appropriate.

§ 584.6 When will the hearing be held?

(a) The Commission shall designate a presiding official who shall commence a hearing within 30 days after the Commission receives a timely notice of appeal. At the request of the appellant, the presiding official may waive the 30-day hearing requirement upon designation.

(b) If the subject of an appeal is whether an order of temporary closure should be made permanent or dissolved, the presiding official shall be designated within 7 days of the timely filing of the notice of appeal, and the hearing shall be concluded within 30 days after the Commission receives a timely notice of appeal, unless the appellant waives this right. Notwithstanding any other provision of this part, the presiding official shall conduct such hearing in a manner that will enable him or her to conclude the hearing within the period required by this paragraph and consistent with any due process rights of the parties, including any period that the record is kept open following the hearing.

§ 584.7 When will I receive a copy of the record on which the Chair relied?

Within 10 days of the timely filing of a notice of appeal, or as soon thereafter as practicable, the record on which the Chair relied will be transmitted to the parties. In appeals dealing with temporary closure orders, the record will be transmitted within 5 days of the timely filing of a notice of appeal. Upon designation of the presiding official, the Commission shall transmit the agency record to the presiding official.

§ 584.8 What is the hearing process?

(a) Once designated by the Commission, the presiding official shall schedule the matter for hearing. The appellant may appear at the hearing personally, through counsel, or through an authorized representative consistent with the requirements of § 580.3 of this subchapter. The appellant, the Chair, and any intervenor shall have the right to introduce relevant written materials and to present an oral argument. At the discretion of the presiding official, a hearing under this section may include an opportunity to submit oral and documentary evidence and cross-examine witnesses.

(b) When holding a hearing under this part, the presiding official shall:

(1) Administer oaths and affirmations;

(2) Issue subpoenas authorized by the Commission;

(3) Rule on offers of proof and receive relevant evidence;

(4) Authorize exchanges of information (including depositions and interrogatories in accordance with 25 CFR part 571, subpart C of this chapter) among the parties when to do so would expedite the proceeding;

(5) Establish and administer the course of the hearing;

(6) When appropriate, hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) At any conference held pursuant to paragraph (b)(6) of this section, require the attendance of at least one representative from each party who has authority to negotiate the resolution of issues in controversy;

(8) Dispose of procedural requests or similar matters;

(9) Recommend decisions in accordance with § 584.12; and

(10) Take other actions consistent with this part that are authorized by the Commission.

(c) The presiding official may order the record to be kept open for a reasonable period of time following the hearing (normally 10 days), during which time the parties may make additional submissions to the record, except that if the subject of the appeal is an order of temporary closure under § 573.4 of this chapter, the record will be kept open for a maximum of 10 days. Thereafter, the record shall be closed and the hearing shall be deemed concluded. Within 30 days after the record closes, the presiding official shall issue a recommended decision in accordance with § 584.12, except that if the subject of the appeal is an order of temporary closure under § 573.4 of this chapter, the presiding official shall issue a recommended decision within 20 days after the record closes.

§ 584.9 How may I request to limit disclosure of confidential information?

(a) If any person submitting a document in a proceeding claims that some or all of the information contained in that document is:

(1) Exempt from the mandatory public disclosure requirements under the Freedom of Information Act (5 U.S.C. 552);

(2) Information referred to in 18 U.S.C. 1905 (disclosure of confidential information); or

(3) Otherwise exempt by law from public disclosure, the person shall:

(i) Indicate that the whole document is exempt from disclosure or identify and segregate information within the document that is exempt from disclosure; and

(ii) Request that the presiding official not disclose such information to the parties to the proceeding (other than the Chair, whose actions regarding the disclosure of confidential information are governed by § 571.3 of this chapter) except pursuant to paragraph (b) of this section, and shall serve the request upon the parties to the proceeding. The request to the presiding official shall include:

(A) A copy of the document, group of documents, or segregable portions of the documents marked ''Confidential Treatment Requested''; and

(B) A statement explaining why the information is confidential.

(b) If the presiding official determines that confidential treatment is not warranted with respect to all or any part of the information in question, the presiding official shall so inform all parties. The person requesting confidential treatment then shall be given an opportunity to withdraw the document before it is considered by the presiding official, or to disclose the information voluntarily to all parties.

(c) If the presiding official determines that confidential treatment is warranted, the presiding official shall so inform all parties.

(d) If the presiding official determines that confidential treatment is warranted, a party to a proceeding may request that the presiding official direct the person submitting the confidential information

to provide that information to the party. The presiding official may so direct if the party requesting the information agrees under oath and in writing:

(1) Not to use or disclose the information except directly in connection with the hearing; and

(2) To return all copies of the information at the conclusion of the proceeding to the person submitting the information under paragraph (a) of this section.

(e) If a person submitting documents in a proceeding under this part does not claim confidentiality under paragraph (a) of this section, the presiding official may assume that there is no objection to disclosure of the document in its entirety.

(f) When a decision by a presiding official is based in whole or in part on evidence not included in the record, the decision shall so state, specifying the nature of the evidence and the provision of law under which disclosure was denied, and the evidence so considered shall be retained under seal as part of the official record.

§ 584.10 What is the process for pursuing settlement or a consent decree?

(a) *General.* At any time after the commencement of a proceeding, but at least 5 days before the date scheduled for hearing under § 584.6, the parties may jointly move to defer the hearing for a reasonable time to permit negotiation of a settlement or an agreement containing findings and an order disposing of the whole or any part of the proceeding.

(b) *Content.* Any agreement containing consent findings and an order disposing of the whole or any part of a proceeding shall also provide:

(1) A waiver of any further procedural steps before the Commission;

(2) A waiver of any right to challenge or contest the validity of the order and decision entered into in accordance with the agreement; and

(3) The presiding official's certification of the findings and that the agreement shall constitute dismissal of the appeal and final agency action.

(c) *Submission.* Before the expiration of the time granted for negotiations, the parties or their authorized representatives may:

(1) Submit to the presiding official a proposed agreement containing consent findings and an order;

(2) Notify the presiding official that the parties have reached a full settlement or partial settlement and have agreed to dismissal of all or part of the action, subject to compliance with the terms of the settlement agreement; or

(3) Inform the presiding official that agreement cannot be reached.

(d) *Disposition.* In the event a full or partial settlement agreement containing consent findings and an order is submitted within the time granted, the presiding official shall certify such findings and agreement within 30 days after his or her receipt of the submission. Such certification shall constitute full or partial dismissal of the appeal, as applicable, and final agency action.

§ 584.11 Will the hearing be transcribed?

Yes. Hearings under this part that involve oral presentations shall be recorded verbatim and transcripts thereof shall be provided to parties upon request. Each party shall pay its own fees for transcripts.

§ 584.12 What happens after the hearing?

(a) Within 30 days after the record closes, the presiding official shall issue his or her recommended decision, except that if the subject of the appeal is an order of temporary closure under § 573.4 of this chapter, the presiding official shall issue a recommended decision within 20 days after the record closes.

(b) The recommended decision shall be in writing, based on the whole record, and include:

(1) Recommended findings of fact and conclusions of law upon each material issue of fact or law; and

(2) A recommended grant or denial of relief.

(c) The presiding official's recommended decision is reviewed by the Commission. The Commission issues the final decision.

§ 584.13 May I file an objection to the recommended decision?

Yes. Within 20 days after service of the presiding official's recommended decision, any party may file objections with the Commission to any aspect of the decision and the reasons therefore, unless the recommended decision is to dissolve or make permanent a temporary closure order issued under § 573.4 of this chapter, in which case objections to the recommended decision must be filed within 5 days after service of the recommended decision.

§ 584.14 When will the Commission issue its final decision?

(a) The Commission shall issue its final decision within 90 days after the date of the recommended decision or within 90 days after the date when objections to the recommended decision are filed or within 90 days after the conclusion of briefing by the parties, whichever comes later, unless the recommended decision is to dissolve or make permanent a temporary closure order issued under § 573.4 of this chapter, in which case the Commission shall issue its decision within 30 days of the recommended decision.

(b) The Commission shall serve its final decision upon the parties.

PART 585—APPEALS TO THE COMMISSION ON WRITTEN SUBMISSIONS OF NOTICES OF VIOLATION, PROPOSED CIVIL FINE ASSESSMENTS, ORDERS OF TEMPORARY CLOSURE, THE CHAIR'S DECISIONS TO VOID OR MODIFY MANAGEMENT CONTRACTS, THE COMMISSION'S PROPOSALS TO REMOVE A CERTIFICATE OF SELF-REGULATION, AND NOTICES OF LATE FEES AND LATE FEE ASSESSMENTS

Sec.

585.1 What does this part cover?
585.2 Who may appeal?
585.3 How do I appeal a notice of violation, proposed civil fine assessment, order of temporary closure, the Chair's decision to void or modify a management contract, the Commission's proposal to remove a certificate of self-regulation, and notices of late fees and late fee assessments?
585.4 Are motions permitted?
585.5 How do I file a motion to intervene?
585.6 When will I receive a copy of the record on which the Chair relied?
585.7 When will the Commission issue its decision?

Authority: 25 U.S.C. 2706, 2710, 2711, 2712, 2713, 2715, 2717.

§ 585.1 What does this part cover?

(a) This part applies to appeals of the following where the appellant does not elect a hearing before a presiding official and instead elects to have the matter decided by the Commission solely on the basis of the written submissions:

(1) Violation(s) alleged in a notice of violation under § 573.3 of this chapter;

(2) Proposed civil fine assessments under part 575 of this chapter;

(3) Orders of temporary closure under § 573.4 of this chapter;

(4) The Chair's decisions to void or modify a management contract under part 535 of this chapter subsequent to initial approval;

(5) The Commission's proposals to remove a certificate of self-regulation under part 518 of this chapter; and

(6) Late fee notifications and assessments under part 514 of this chapter.

(b) Appeals from these actions involving a hearing before a presiding official are brought under part 584 of this chapter.

§ 585.2 Who may appeal?

(a) Appeals of notices of violation, proposed civil fine assessments, orders of temporary closure, proposals to remove certificates of self-regulation, and late fee notifications and assessments may only be brought by the tribe or the recipient that is the subject of the action.

(b) Appeals of the Chair's decision to void or modify a management contract after approval may only be brought by a party to the management contract.

§ 585.3 How do I appeal a notice of violation, proposed civil fine assessment, order of temporary closure, the Chair's decision to void or modify a management contract, the Commission's proposal to remove a certificate of self regulation, and notices of late fees and late fee assessments?

Within 30 days after the Chair serves his or her action or decision, or the Commission serves notice of its intent to remove a certificate of self-regulation, the appellant must file a notice of appeal with the Commission. The notice of appeal must reference the action or decision from which the appeal is taken and shall include a written waiver of the right to an oral hearing before a presiding official and an election to have the matter determined by the Commission solely on the basis of written submissions. Unless the Commission has extended the time for filing an appeal brief pursuant to § 580.4(f) of this subchapter, the appeal brief must be filed within 30 days of service of the record pursuant to § 585.6. The appeal brief shall state succinctly the relief sought and the supporting ground(s) therefor, and may include supporting documentation.

§ 585.4 Are motions permitted?

(a) Motions for extension of time under § 580.4(f) of this subchapter, motions to supplement the record under § 581.5 of this subchapter, motions to intervene under § 585.5, and motions for reconsideration under § 581.6 of this subchapter, are permitted. All other motions may be considered at the discretion of the Commission.

(b) The Chair shall not, either individually or through counsel, file or respond to motions.

§ 585.5 How do I file a motion to intervene?

(a) An entity or individual, whether acting on his or her own behalf or as an agent of another entity, not permitted to appeal, may be permitted to participate as a party to a pending appeal if the Commission finds that:

(1) The final decision could directly and adversely affect it or the class it represents;

(2) The individual or entity may contribute materially to the disposition of the proceedings;

(3) The individual's or entity's interest is not adequately represented by existing parties; and

(4) Intervention would not unfairly prejudice existing parties or delay resolution of the proceeding.

(b) A tribe with jurisdiction over the lands on which there is a gaming operation that is the subject of a proceeding under this part may intervene as a matter of right if the tribe is not already a party.

(c) A motion to intervene shall be submitted to the Commission within 10 days of the notice of appeal. The motion shall be filed with the Commission and served on each person who has been made a party at the time of filing. The motion shall succinctly state:

(1) The moving party's interest in the proceeding;

(2) How his or her participation as a party will contribute materially to the disposition of the proceeding;

(3) Who will appear for the moving party;

(4) The issues on which the moving party seeks to participate; and

(5) Whether the moving party seeks to present witness affidavits.

(d) Objections to the motion must be filed by any party within 10 days after service of the motion.

(e) A reply brief to the brief in opposition may be filed within 5 days of service of the brief in opposition.

(f) When motions to intervene are made by individuals or groups with common interests, the Commission may request all such movants to designate a single representative, or the Commission may recognize one or more movants.

(g) The Commission shall give each movant and party written notice of the decision on the motion. For each motion granted, the Commission shall provide a brief statement of the reason(s) for the decision. If the motion is denied, the Commission shall briefly state the ground(s) for denial. The Commission may allow the movant to participate as *amicus curiae,* if appropriate.

§ 585.6 When will I receive a copy of the record on which the Chair relied?

Within 10 days of the filing of a notice of appeal, or as soon thereafter as practicable, the record will be transmitted to the appellant.

§ 585.7 When will the Commission issue its decision?

(a) The Commission shall issue its decision within 90 days: After it receives the appeal brief; or its ruling on a request for intervention, if applicable; or after the conclusion of briefing by the parties, whichever comes later, unless the subject of the appeal is whether to dissolve or make permanent a temporary closure order issued under § 573.4 of this chapter, in which case, the Commission shall issue its decision within 30 days of conclusion of briefing by the parties.

(b) The Commission shall serve the final decision upon the appellants.

Dated: September 18, 2012, Washington, DC.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Commissioner.

[FR Doc. 2012–23371 Filed 9–24–12; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO26

Exempting In-Home Video Telehealth From Copayments

AGENCY: Department of Veterans Affairs.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Department of Veterans Affairs (VA) published a direct final rule amending its regulation that governs VA services that are not subject to copayment requirements for inpatient hospital care or outpatient medical care. Specifically, the regulation exempted in-home video telehealth care from having any required copayment. VA received no significant adverse comments concerning this rule or its companion substantially identical proposed rule published on the same date. This document confirms that the direct final rule became effective on May 7, 2012. In a companion document in this issue of the **Federal Register**, we are withdrawing as unnecessary the proposed rule.

DATES: *Effective Date:* This final rule is effective May 7, 2012.

FOR FURTHER INFORMATION CONTACT: Kristin J. Cunningham, Director Business Policy, Chief Business Office, Department of Veterans Affairs, 810

Vermont Ave. NW., Washington, DC 20420; (202) 461–1599. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a direct final rule published in the **Federal Register** on March 6, 2012, 77 FR 13195, VA amended 38 CFR 17.108 to eliminate copayments for in-home video telehealth. VA published a companion substantially identical proposed rule at 77 FR 13236 on the same date to serve as a proposal for the provisions in the direct final rule in case adverse comments were received. The direct final rule and proposed rule each provided a 30-day comment period that ended on April 5, 2012. No adverse comments were received. Two comments that supported the rulemaking were received from members of the general public.

Under the direct final rule procedures that were described in 77 FR 13195 and 77 FR 13236, the direct final rule became effective on May 7, 2012, because no significant adverse comments were received within the comment period. In a companion document in this issue of the **Federal Register**, VA is withdrawing the proposed rulemaking, RIN 2900–AO27, published at 77 FR 13236, as unnecessary.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on September 18, 2012, for publication.

Dated: September 19, 2012.

Robert C. McFetridge,

Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2012–23513 Filed 9–24–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0847; FRL–9731–8]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Control Technique Guidelines for Plastic Parts, Metal Furniture, Large Appliances, and Miscellaneous Metal Parts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Delaware State Implementation Plan (SIP) submitted by the State of Delaware through the Delaware Department of Natural Resources and Environmental Control (DNREC). The revisions amend Delaware's regulation for the Control of Volatile Organic Compounds (VOC) for sources covered by EPA's Control Techniques Guidelines (CTG) standards for the following categories: Plastic Parts, Metal Furniture, Large Appliances, and Miscellaneous Metal Parts. EPA is approving this SIP revision to meet the requirements to implement reasonably available control technology (RACT) controls on emission sources covered by EPA's CTGs in accordance with the requirements of the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on October 25, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2010–0847. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 13, 2012 (77 FR 41337), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision that amends Regulation No. 1124, Control of Volatile Organic Compounds, sections 2.0 ''Definitions,'' 12.0 ''Surface Coating of Plastic Parts,'' 19.0 ''Coating of Metal Furniture,'' 20.0 ''Coating of Large Appliances,'' and 22.0 ''Coating of Miscellaneous Metal Parts,'' to incorporate the requirements of EPA's CTGs. CTGs are documents issued by EPA that provide guidance to states concerning what types of controls could constitute RACT for VOC from various sources, including the coating of plastic parts, metal furniture, large appliances, and miscellaneous metal parts. EPA requires all ozone nonattainment areas to update regulations for emission sources covered in an EPA CTG and to submit the regulations to EPA for approval as SIP revisions. These amendments will reduce the VOC content of currently regulated coatings, regulate additional coating categories, require the use of coating application equipment that provides for high transfer efficiency, and require that clean-up solvent emissions be included in regulatory applicability determinations. EPA received no comments on the NPR to approve Delaware's SIP revision. The formal SIP revision was submitted by the State of Delaware on April 1, 2010 and March 9, 2012.

II. Summary of SIP Revision

The SIP revision consists of the following revisions to Delaware's Regulation No. 1124: (1) Amendments to section 2.0—Definitions, which adds definitions; (2) amendments to section 12.0—Surface Coating of Plastic Parts, which establishes applicability for every owner or operator of any plastic parts or products coating units, adds, revises, and deletes definitions, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements; (3) amendments to section 19.0—Coating of Metal Furniture, which establishes applicability to every owner or operator of any metal furniture coating unit, revises a definition, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements; (4) amendments to section 20.0—Coating of Large Appliances, which establishes

applicability to every owner or operator of any large appliance coating unit, revises a definition, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements; and (5) amendments to section 22.0—Coating of Miscellaneous Metal Parts, which establishes applicability to every owner or operator of any miscellaneous metal parts and products coating unit, adds, revises, and deletes definitions, specifies standards and exemptions, and specifies control devices, test methods, compliance certification, recordkeeping, and reporting requirements. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

III. Final Action

EPA is approving as a revision to the Delaware SIP the revisions to 7 DE Administrative Code 1124, sections 2.0, 12.0, 19.0, 20.0, and 22.0 for the control of VOC emissions from plastic parts, metal furniture, large appliances, and miscellaneous metal parts. This SIP revision meets the requirements to implement RACT controls on emission sources.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 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 approving Delaware's control of VOCs from plastic parts, metal furniture, large appliances, and miscellaneous metal parts 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2012.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (c) is amended by revising the entries for Regulation 1124, sections 2.0, 12.0, 19.0, 20.0, and 22.0 to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
. *	*	*	*	*	*	*

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
1124 Control of Volatile Organic Compound Emissions				
*	*	*	*	*
Section 2.0	Definitions	4/11/10	9/25/12 *[Insert page number where the document begins].*	Amended to add definitions.
*	*	*	*	*
Section 12.0	Surface Coating of Plastic Parts	10/11/11	9/25/12 *[Insert page number where the document begins].*	
*	*	*	*	*
Section 19.0	Coating of Metal Furniture	10/11/11	9/25/12 *[Insert page number where the document begins].*	
Section 20.0	Coating of Large Appliances	10/11/11	9/25/12 *[Insert page number where the document begins].*	
*	*	*	*	*
Section 22.0	Coating of Miscellaneous Metal Parts	10/11/11	9/25/12 *[Insert page number where the document begins].*	
*	*	*	*	*

* * * * *

[FR Doc. 2012–23495 Filed 9–24–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0159; FRL–9731–9]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Section 110(a)(2) 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 submittals from the Commonwealth of Pennsylvania pursuant to the Clean Air Act (CAA). Whenever new or revised National Ambient Air Quality Standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance and enforcement of such NAAQS. The plan is required to address basic program elements including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. Pennsylvania has made submittals addressing the infrastructure requirements for the 1997 8-hour ozone and fine particulate matter ($PM_{2.5}$) NAAQS and the 2006 $PM_{2.5}$ NAAQS. This action approves those submittals, or portions thereof.

DATES: This final rule is effective on October 25, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2010–0159. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ruth Knapp, (215) 814–2191, or by email at *knapp.ruth@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

I. Background

On September 1, 2011 (76 FR 54410), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of Pennsylvania's submittals that provide the infrastructure elements specified in CAA section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, necessary to implement, maintain, and enforce the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS. The submittals by the Commonwealth of Pennsylvania dated December 7, 2007 and June 6, 2008 addressed the section 110(a)(2) requirements for the 1997 8-hour ozone NAAQS. The submittals dated December 7, 2007, June 6, 2008, and April 26, 2010 addressed the section 110(a)(2) requirements for the 1997 $PM_{2.5}$ NAAQS. Finally, the submittals dated April 26, 2010 and May 24, 2011 addressed the section 110(a)(2) requirements for the 2006 $PM_{2.5}$ NAAQS.

II. Summary of SIP Revision

The submittals referenced in the Background section above address the infrastructure elements specified in CAA section 110(a)(2) as applicable. These submittals provide for the implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS. The rationale supporting EPA's proposed action

including the scope of infrastructure SIPs in general is explained in the NPR and the technical support document (TSD) accompanying the NPR and will not be restated here. The TSD is available online at *www.regulations.gov,* Docket ID Number EPA–R03–OAR–2010–0159. On October 3, 2011, EPA received public comments on its September 1, 2011 NPR from the Clean Air Council and the Sierra Club (referred to herein as Commenter). A summary of the comments submitted and EPA's responses are provided in Section III of this action.

III. Summary of Public Comments and EPA Responses

Comment: The Commenter raises concerns relating to Pennsylvania's ambient air monitoring system. According to the Commenter, ''The current monitoring system does not account for the Marcellus Shale industry and therefore the ambient air quality monitoring plan is inadequate to monitor, collect and analyze the NAAQS.'' The Commenter provides descriptions of one study and one event to support a general concern that ''impacts of oil and gas development on air quality are by no means insignificant.'' The Commenter does not identify any specific Federally enforceable air quality monitoring requirement with which Pennsylvania's monitoring system fails to comply for either the 1997 ozone NAAQS or for the 1997 or 2006 $PM_{2.5}$ NAAQS.

Response: EPA disagrees with the Commenter concerning the statutory infrastructure requirements for monitoring. The infrastructure requirement at issue is set forth at CAA section 110(a)(2)(B)(i) and requires that, for each NAAQS at issue, Pennsylvania's SIP must ''provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality * * *'' EPA has documented in the TSD and the administrative record supporting the rulemaking that Pennsylvania has met this statutory requirement. In the course of evaluating the submittals, EPA confirmed that the Commonwealth has met the monitoring requirements for the 1997 ozone and 1997 and 2006 $PM_{2.5}$ NAAQS. Pennsylvania has three Federally approved air quality monitoring plans. The Pennsylvania Department of Environmental Protection (PADEP) establishes, operates and maintains a network of ambient air monitors throughout Pennsylvania, excluding Philadelphia and Allegheny Counties. Both Philadelphia Air Management Services (AMS) and the Allegheny County Health Department (ACHD) operate separate air monitoring networks and collect data pursuant to the Federally approved monitoring plans within these areas. Each annual monitoring network plan is made available for public inspection for at least 30 days prior to submission to EPA. *See* 40 CFR 58.10(a)(1). Additionally, as required in 40 CFR 58.10, each state is required to submit an annual network design plan to the EPA Regional Administrator by July 1 of each year. The most recent monitoring plans approved by EPA were submitted by PADEP on August 4, 2011, by AMS on July 1, 2011 and by ACHD on July 1, 2011. EPA approved each of these plans and notified the appropriate entity of the approval on December 6, 2011. These approval letters may be found in the docket supporting this action. The Commenter raises no issue as to whether the regulatory requirements set forth in 40 CFR Part 58, Subpart B have been met or whether the public has had opportunities to submit comments on each annual network plan or modifications to such plans in accordance with 40 CFR 58.14. Rather, the Commenter seems to request EPA to expand the statutory requirement for the infrastructure SIP set forth in CAA section 110(a)(2)(B) to include air quality monitoring criteria for a specific industry that goes beyond the current regulatory requirements for monitoring networks for ozone and $PM_{2.5.}$ EPA continues to believe that the relevant ambient air quality monitoring and data systems in Pennsylvania meet the statutory requirement that a state's SIP must provide for the establishment and operation of appropriate devices, methods, systems and procedures to monitor, compile and analyze data on ambient air quality because the monitoring network meets current regulatory requirements and is consistent with applicable EPA guidance. The Commenter may submit comments and suggestions concerning the monitoring networks in another more appropriate forum by submitting comments on future annual monitoring network plan submissions prepared by PADEP, AMS or ACHD which are open to public comment prior to being submitted to EPA.

Comment: After summarizing the statutory language of CAA section 110(a)(2)(C), the Commenter raises concerns about Pennsylvania's current permitting program and states that, ''The current permitting program is inadequate to assure that the NAAQS are achieved because it exempts all engines less than 100 horsepower associated with oil and gas industry.'' In support of this general concern, the Commenter cites to 25 Pa. Code section 127.14 (relating to exemptions) and states, ''PADEP may determine sources or classes of sources to be exempt from the plan approval and permitting requirements of 25 Pa. Code Chapter 127 (relating to construction, modification, reactivation, and operation of sources).'' The Commenter asserts that, ''The blanket exemption for oil and gas exploration and production facilities and operation except for gas compressor station engines equal to or greater than 100 HP or gas extraction wells at landfills is inconsistent with the CAA.'' The Commenter also raises concerns relating to ozone maintenance plans that were submitted by Pennsylvania in accordance with a separate statutory requirement. The Commenter claims such plans are inadequate due to recent gas and oil activity.

Response: The comments at issue acknowledge that Pennsylvania has a program as described by CAA section 110(a)(2)(C) which is ''a program to provide for the * * * regulation of the modification and construction of any stationary source within [Pennsylvania] as necessary to assure that the NAAQS are achieved.'' The comments focus on the adequacy of such a program, rather than the existence of such a program. The Commenter's conclusory statements that specific exemptions in Pennsylvania's regulations governing the modification and construction of air contamination sources cause the program to be ''inadequate to assure that the NAAQS are achieved'' are not supported by any data. The Commenter asserts without any support that, in order to assure that the NAAQS are achieved, Pennsylvania should not exempt gas compressor stations engines less than 100 HP or gas extraction wells at landfills. However, the Commenter has not provided, and EPA is not aware of, any data indicating that, as a direct result of the exemption set forth at 25 Pa. Code section 127.14, there is an area of Pennsylvania that is not achieving any NAAQS at issue (the 1997 $PM_{2.5}$ NAAQS, 1997 ozone NAAQS and the 2006 $PM_{2.5}$ NAAQS). EPA has no data indicating that the emissions from the activities subject to the cited exemption are preventing Pennsylvania from achieving any NAAQS at issue. The Commenter has not provided sufficient information to support a conclusion that the cited exemption is ''inconsistent with the CAA.'' Furthermore, although the Commenter raises concerns about

ozone maintenance plans, which have been previously approved by EPA, the Commenter does not explain how such SIP approved maintenance plans relate to Pennsylvania's compliance with CAA 110(a)(2)(A) or (C) for the NAAQS at issue. Ozone maintenance plans are approved by EPA pursuant to CAA section 175A. These plans were subject to public notice and comment as part of EPA's approval process. The proper forum to raise concerns relating to such plans would have been during such public comment periods. These maintenance plans are not subject to review and comment during this agency action. EPA disagrees with any assertion that the SIP approved ozone maintenance plans referred to by the Commenter provide adequate justification for finding that Pennsylvania has failed to meet its obligations for the 1997 ozone and $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS pursuant to CAA section 110(a)(2)(A) and (C).

Pennsylvania's plan approval requirements for new sources or modifications at existing sources are included in its SIP. On July 30, 1996, EPA approved Pennsylvania's Minor New Source Review (NSR) program into its SIP. *See* 61 FR 39597. The Commonwealth and EPA have relied on the existing state NSR program to assure that new and modified sources do not interfere with attainment and maintenance of the NAAQS. EPA has determined that Pennsylvania's minor NSR program adopted pursuant to CAA section 110(a)(2)(C) regulates emissions of $PM_{2.5}$ and ozone and their precursors. For the 1997 $PM_{2.5,}$ 1997 ozone and 2006 $PM_{2.5}$ NAAQS, Pennsylvania's NSR program meets the statutory requirement that a state include in its SIP ''a program to provide for the * * * regulation of the modification and construction of any stationary source within [Pennsylvania] as necessary to assure that the NAAQS are achieved.''

In this action, EPA is approving Pennsylvania's infrastructure SIPs for the 1997 $PM_{2.5}$ and ozone NAAQS and the 2006 $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. Even in those situations where EPA has identified that a state's minor NSR provisions may be contrary to the existing EPA regulations, EPA has repeatedly taken the position that, as part of infrastructure SIP approvals, EPA is not proposing to approve or disapprove a state's existing minor NSR program itself to the extent that it is or may be inconsistent with EPA's regulations governing this program. EPA has indicated that it intends to work with states to reconcile state minor NSR programs with EPA's regulatory provisions for the program. EPA has taken this position because the statutory requirements of CAA 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs. The SIP provision cited by the Commenter (25 Pa. Code section 127.14) is not inconsistent with EPA's NSR regulatory provisions and is not inconsistent with the statutory requirements of section CAA 110(a)(2)(C). EPA believes that, while assuring reasonable consistency across the country in protecting the NAAQS with respect to new and modified minor sources, Pennsylvania should be given an appropriate level of flexibility to design a program that meets its particular air quality concerns. EPA will continue to monitor Pennsylvania's NSR program to ensure that this program regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved.

Comment: The Commenter expresses concern that ''PADEP requires little to no monitoring or reporting for criteria and hazardous air pollutants associated with the drilling, extracting, and processing of natural gas from the Marcellus Shale'' and asserts that these alleged monitoring or reporting deficiencies are the result of PADEP's failure to aggregate sources in accordance with requirements in NSR, Prevention of Significant Deterioration (PSD), and Title V of the CAA. The Commenter refers to the September 22, 2009 Memo from Gina McCarthy, Assistant Administrator for the EPA's Office of Air and Radiation, ''Withdrawal of Source Determinations for Oil and Gas Industries.'' The Commenter states that, as part of the Commenter's review of thirty plan approval files in 2011, it found only three aggregation analyses by PADEP and asserts that PADEP should conduct such analyses on every plan approval application.

Response: The statutory requirement, CAA section 110(a)(2)(F), at issue as cited by the Commenter requires that each SIP for each NAAQS ''require, as may be prescribed by the Administrator—(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emissions limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection.'' *See* CAA section 110(a)(2)(F). EPA disagrees with the Commenter's statements under section 110(a)(2)(F) which are related to source determinations under Pennsylvania's NSR, PSD and Title V programs. The narrow issue raised by the Commenter relates to implementation of Pennsylvania's Federally approved program. The issue raised goes beyond the basic statutory requirements of CAA section 110(a)(2)(F) that, as part of its SIP, the Commonwealth include certain general requirements. Pennsylvania incorporates by reference the Federal PSD regulations and has a SIP approved NSR program. Therefore, EPA believes there is no question that the Commonwealth meets this general statutory requirement. EPA's administrative record, including the TSD for this action, provides sufficient support for the finding that Pennsylvania's SIP for each of the relevant NAAQS meets the statutory requirement set forth at CAA section 110(a)(2)(F).

Comment: The Commenter states that PADEP does not have enough personnel to properly implement its SIP. The Commenter relies upon an undated Clean Water Action report which summarizes the reduction in PADEP's overall budget during the period of 2000 through 2011. The Commenter also relies upon an April 13, 2011 local newspaper article reporting that four Pennsylvania environmental regulators indicated that they ''spend as little as 35 minutes reviewing each of the thousands of applications for natural gas well permits * * *''

Response: EPA understands the concern that reductions in a state's budget may impede the state's ability to fulfill its obligations. However, a reduction in a state's budget allocated to environmental protection is by itself an insufficient basis for finding that a state has failed to meet its statutory obligations to ''provide (i) necessary assurances that the State * * * will have adequate personnel, funding, and authority under State law to carry out such implementation plan * * *'' *See* CAA section 110(a)(2)(E)(i). The administrative record for this action identifies several funding sources including Title V permit fees, federal funds under CAA sections 105 and 103 and funds from the Clean Air Fund and supports a finding that Pennsylvania has provided EPA with such assurances that it has adequate personnel and funding to carry out its SIP. If, in the

future, EPA determines that the Commonwealth does not have adequate personnel or funding to carry out its SIP, or for any other reason fails to meet any requirement of its approved SIP, then EPA may exercise its authority pursuant to CAA sections 110(a)(2)(E), 179 or 110(k)(5). The action that EPA is taking today does not limit EPA's authority pursuant to those CAA sections.

Comment: The Commenter expresses concern that ''PA DEP does not have an adequate plan to deal with the emergency situations associated with Marcellus Shale operations.'' The Commenter relies upon an Internet news article and its experience of receiving complaints from citizens living near natural gas operations.

Response: EPA disagrees with the Commenter and believes Pennsylvania has met the requirements of CAA section 110(a)(2)(G). The Commenter raises a general concern regarding general emergency situations, including those situations unrelated to air quality. The TSD and administrative record supporting EPA's action support a finding that Pennsylvania has met its obligations to provide adequate contingency plans to implement authority comparable to that in CAA section 303, as required by CAA section 110(a)(2)(G). The TSD clearly sets forth the relevant statutory and regulatory emergency authority. Furthermore, the TSD sets forth how the Commonwealth followed EPA's September 25, 2009 guidance, entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' which provides EPA's interpretation of ''Prevention of Air Pollution Emergency Episodes'' rules at 40 CFR 51.150 and criteria for which states must develop emergency episode contingency plans. The Commenter does not assert that the Commonwealth has not met its statutory and regulatory obligations. Here, the Commenter seeks an expansion of the statutory and regulatory requirements relating specifically to adequate contingency plans for any type of emergency situation. However, the purpose of EPA's action is to determine whether the Commonwealth has met the basic infrastructure requirements of CAA section 110(a)(2) and related regulatory requirements. Therefore, there is no basis for finding that Pennsylvania's SIP fails to meet such requirements. Pennsylvania's SIP contains the requisite general emergency authority to address urgent air quality situations but is not required to have specific contingency plans for all situations and specifically does not require a plan for $PM_{2.5}$ as per EPA guidance.

Comment: The Commenter provides a summary of the requirements of CAA section 110(a)(2)(D)(i)(I) and (II). The remaining portion of the comment focuses upon concerns that emissions from ''Marcellus Shale operations'' may impact Pennsylvania and states adjacent to or downwind of Pennsylvania due to concerns relating to source determinations and ambient air quality monitoring. The Commenter claims ''[t]he proposed SIP fails to take into account the impact that Marcellus Shale operations are having on areas downwind from shale activity.''

Response: This comment appears to address requirements of CAA section 110(a)(2)(D)(i)(I) and (II). As explained in the NPR (76 FR 54410) and the TSD, EPA's action is limited to a determination of whether the Commonwealth has met its obligations pursuant to the portion of 110(a)(2)(D)(i)(II) relating to the part C permit program (or the PSD permit requirements). Therefore, any comment relating to additional requirements of CAA section 110(a)(2)(D)(i)(I) is not relevant to this action. With respect to the PSD requirements of CAA section 110(a)(2)(D)(i)(II), it is EPA's position that this sub-element may be met by a state's confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to PSD requirements consistent with the CAA. Pennsylvania has made this confirmation. Pennsylvania's SIP incorporates by reference all Federally enforceable PSD regulations for the NAAQS at issue.[1] For Allegheny County, the PSD requirements have been addressed by an existing Federal Implementation Plan (FIP). The TSD and the administrative record clearly support a finding that Pennsylvania has met its statutory obligations to include adequate provisions prohibiting any source within Pennsylvania from emitting any air pollutant in amounts which will interfere with PSD measures required by any other state. The Commenter does not explain how any emissions from any source in Pennsylvania may interfere with another state's PSD SIP requirements. As explained above, Pennsylvania has met its statutory obligations relating to its PSD Program as required by CAA section 110(a)(2)(D)(i)(II). Many of the CAA 110(a)(2) SIP elements, including section 110(a)(2)(D)(i), relate to the general information and authorities that constitute the ''infrastructure'' of a state's air quality management program. The CAA 110(a)(2) SIP submissions that EPA is acting upon are not required to address specific industry sources. Rather, these submissions are required to demonstrate the general statutory and regulatory infrastructure a state has to implement to meet the requirements of Subchapter I (Programs and Activities) of the CAA.

Comment: The Commenter generally asserts that EPA cannot fully approve Pennsylvania's infrastructure SIPs for several reasons. First, the Commenter generally asserts that the process was not sufficiently transparent because the NPR did not include all of the relevant information, including references to all relevant rules, EPA's analysis of such rules, and links to all relevant data that may be available on the Internet.

Response: EPA disagrees with the Commenter. The Commenter is interested in transparency and interested in the Agency providing substantially more information in the **Federal Register**. The Commenter does not assert that the NPR in conjunction with the TSD and other materials in the docket for the proposals were inadequate to promote an appropriate public process on the Commonwealth's infrastructure SIP submittals. EPA believes that the NPR in conjunction with the information provided in the supporting administrative docket were adequate to allow the public an opportunity to review and comment on EPA's proposed action.

The Commenter raises a procedural issue that is separate and distinct from the substantive issue addressed by EPA's proposed rulemaking which is whether the SIP submissions at issue meet the criteria of the portions of CAA section 110(a)(2) addressed in the NPR. The Commenter has not provided EPA with sufficient information supporting a finding that Pennsylvania has failed to meet any of its obligations pursuant to the portions of CAA section 110(a)(2) addressed in EPA's proposed action.

As a general matter, the Commenter seems to interpret the EPA Administrator's goal of transparency as a mandate that all information for any EPA proposed administrative rulemaking must be set forth in the NPR itself, with no reliance on an administrative record. EPA appreciates the Commenter's interest in a ''one-stop-shop'' for all information (even tangential information) related to its

[1] EPA notes that Pennsylvania's incorporation by reference of 40 CFR 52.21 includes 40 CFR 51.21(k)(1) which provides that the ''owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification * * * would not cause or contribute to air pollution in violation of'' any NAAQS.

proposed action. However, the proposed interpretation of ''transparent'' would be unduly burdensome and contrary to the requirements of the Administrative Procedures Act (APA), 5 U.S.C. 533(b). EPA followed the APA and provided sufficient information to support its proposed administrative action and a public comment period on its proposed action. The documents contained in the docket provided numerous references to specific regulations and the Code of Federal Regulations. The docket also includes EPA's analysis of such rules relevant to this action along with relevant guidance and data. With respect to ''links to all relevant data that may be available on the Internet,'' EPA does not typically include detailed information when it's otherwise publicly available. With respect to analysis of data, there is no requirement that detailed technical information must be included in the NPR. EPA often includes a TSD as part of its administrative rulemaking actions. By including a TSD, in addition to the NPR, the public may more easily understand the basic action EPA is proposing to take and access more detailed information if desired. By making a TSD available on-line, by request, and as a hardcopy in the paper docket, EPA has made this important underlying technical information available to the public and has eliminated unnecessary costs associated with the overall rulemaking action. EPA's NPR and additional information contained in the docket for public review are in accordance with the APA and fulfill the Administrator's interest in transparency as well as Federal law requirements.

Comment: The Commenter states that the CAA requires that the infrastructure SIPs include an adequate PSD permitting program needed to address CAA section 110(a)(2)(C), (D)(i)(II) and (J) and expresses concern that Pennsylvania's PSD program may not be ''approved'' if it lacks significant emission rates found in 40 CFR 52.21(b)(23)(i) [2011] and $PM_{2.5}$ increments found in 40 CFR 52.21(c) [2011]. The Commenter states it is not clear whether the Pennsylvania PSD program incorporates by reference the version of the Code of Federal Regulations that existed at the time EPA approved Pennsylvania's PSD program into the SIP or automatically incorporates the current version of the Code of Federal Regulations. The Commenter requests that EPA either clarify that 25 Pa. Code Section 127.83 incorporates the most recent version of 40 CFR 52.21 automatically or, alternatively, the Commenter indicates that EPA cannot approve the Pennsylvania SIP for the 2006 $PM_{2.5}$ NAAQS until the SIP is updated to incorporate the $PM_{2.5}$ increments which were effective December 20, 2010.

Response: EPA believes Pennsylvania has a PSD permitting program sufficient to meet the requirements in CAA section 110(a)(2)(C), (D)(i)(II) and (J). Pennsylvania has met the requirements for the $PM_{2.5}$ NAAQS embodied in the $PM_{2.5}$ NSR Implementation Rule (*see* 73 FR 28321 (May 16, 2008)), as well as the increment requirements of EPA's October 20, 2010 rulemaking (75 FR 64864) by virtue of its incorporation by reference of 40 CFR 52.21 in its entirety. EPA's approval of 25 Pa. Code Section 127.83 on August 21, 1984 (49 FR 33127) explains that Pennsylvania's incorporation by reference of 40 CFR 52.21 does not identify a specific edition of 40 CFR 52.21 and that all future changes thereto would automatically be incorporated by reference. Therefore, Pennsylvania's SIP approved PSD program clearly includes the Federal regulations identified by the Commenter.

Comment: The Commenter states that EPA cannot approve Pennsylvania's SIP with regard to CAA section 110(a)(2)(G). The Commenter states that the NPR and TSD give no indication that Pennsylvania has adopted emergency episode plans. The Commenter references the portion of EPA's September 25, 2009 guidance entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS)'' which states that states have to establish their own priority action levels and emergency action levels for $PM_{2.5}$ ''through their public processes.''

Response: EPA disagrees with the Commenter's view that Pennsylvania's infrastructure SIP submission is not consistent with CAA section 110(a)(2)(G) with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS. As the Commenter noted, EPA has not amended the regulations of 40 CFR 51.151 to include a significant harm level or priority cut point for $PM_{2.5}$. In the absence of such regulations, EPA issued guidance to states to recommend how they could comply with CAA section 110(a)(2)(G). Also, although the regulations have not changed, a state still needs to meet the statutory requirement, and EPA provided an approach states could use to meet the requirements. The Commenter refers to the September 25, 2009 ''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 Standard (NAAQS).'' This document is part of the docket supporting the proposed action and is the document that indicates the approach a state could take to meet the requirement. This document may be found in hard copy in the paper docket file and in the electronic docket at Document ID Number EPA–RO3–0AR–2010–0159–0008. The Commenter refers to a portion of this guidance, but fails to include other relevant portions of this guidance. The relevant portion of this guidance recommends:

> To address the section 110(a)(2)(G) element, states with air quality control regions identified as either Priority I, Priority IA, or Priority II by the ''Prevention of Air Pollution Emergency Episodes'' rules at 40 CFR 51.150, must develop emergency episode contingency plans. Currently, those regulations do not specifically address $PM_{2.5}$ * * * [F]or the purposes of satisfying the requirements of section 110(a)(2)(G), states would develop emergency episode plans for any area that has monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140.4 ug/m^3 since 2006V If this level was never exceeded in any area of the state, the state can certify that it has appropriate general emergency powers to address $PM_{2.5}$ related episodes, and that no specific emergency episode plans are necessary at this time, given the existing monitored levels. States should develop submissions to meet this requirement through appropriate public processes.

In accordance with this guidance, Pennsylvania submitted a SIP revision addressing the contingency plan portion of CAA section 110(a)(2)(G) for both the 1997 and 2006 $PM_{2.5}$ NAAQS on April 26, 2010. This submittal states in relevant part, ''For both the 2006 and 1997 $PM_{2.5}$ NAAQS, no specific emergency episode plans are necessary given that existing monitored levels have not exceeded the level of 140.4 micrograms per cubic meter (ug/m^3) identified by EPA in its September 25, 2009 ''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), pp. 6–7.'' This submittal was subject to the appropriate public processes. The transmittal letter states that the ''public participation process for this SIP revision included a 30 day written comment period and an opportunity for public hearing * * * The DEP did not receive any comments during the public comment period.'' This letter from Pennsylvania is contained in the docket with Document ID Number EPA–RO3–0AR–2010–0159–0003. A copy of the April 26, 2010 SIP submittal and the notices of opportunity for public comments are included as attachments to the electronic copy of the document identified above (EPA–R03–

OAR–2010–0159–0003). Pennsylvania's submittals identified in the electronic docket with Docket ID Number EPA–R03–OAR–2010–0159 meet the requirements in the EPA's guidance document that the Commenter references. Based upon such submittals, Pennsylvania has submitted sufficient information to support a finding that the monitored data throughout the Commonwealth of Pennsylvania from 2006 through April 2010 have not exceeded 140.4 ug/m^3. Accordingly, EPA has concluded that Pennsylvania's infrastructure SIPs are consistent with the requirements of CAA section 110(a)(2)(G).

Comment: The Commenter seeks EPA's review of Pennsylvania's ambient air quality monitoring data for the limited purpose of determining whether Pennsylvania is accurately asserting that it has not monitored any $PM_{2.5}$ readings above 140.4 ug/m^3.

Response: EPA agrees that the Agency as a matter of general practice should review state monitoring data in conjunction with its review of a state's assertions relating to such data. A state is required to certify all air monitoring data on a yearly basis (*see* 40 CFR 58.15) and EPA reviews this data each year. EPA has reviewed Pennsylvania's certified ambient air quality monitoring data and as part of that independent review has determined that Pennsylvania's assertion is correct. Pennsylvania's highest $PM_{2.5}$ reading since 2006 was at Liberty, PA. The sampled value occurred in 2006 and was 100.7 ug/m^3. The relevant monitoring data is also accessible to the public at various web sites including *http://www.epa.gov/airdata.* Based upon its review of Pennsylvania's ambient air quality monitoring data since 2006, EPA has determined that Pennsylvania has correctly indicated that it has not monitored any 24 hour $PM_{2.5}$ readings above 140.4 ug/m^3.

Comment: The Commenter raises two issues related to the definitions provided in 25 Pa. Code Section 121.1. The Commenter states that with regard to ozone, the definitions of marginal, serious, and severe ozone nonattainment areas in the SIP approved version of 25 Pa. Code Section 121.1 are based on 1-hour ozone NAAQS rather than the 1997 8-hour ozone NAAQS and that these definitions need to be updated. Also, the Commenter states that there is no definition of $PM_{2.5}$ in 25 Pa. Code Section 121.1 and that Pennsylvania needs one.

Response: EPA agrees that as a general matter the absence or inadequacy of definitions could be relevant to review of a SIP submittal pursuant to CAA section 110(a)(2), however, EPA disagrees that the specific issues raised by the Commenter support a finding that the SIPs at issue fail to meet the applicable 110(a)(2) requirements. EPA has considered the concerns raised by the Commenter and finds that the Commenter has not identified a defect in the SIP approved version of 25 Pa. Code Section 121.1 that, in and of itself, is sufficient to support a finding that Pennsylvania has not met its obligations pursuant to the portions of section 110(a)(2) addressed herein. The SIP submissions at issue which EPA is approving do not directly address and do not modify the definitions set forth in 25 Pa. Code Section 121.1. Therefore, these specific definitions are not directly a part of this rulemaking. Furthermore, the statutory provisions at issue do not expressly set criteria for the state regulatory definition provisions. The Commenter has not explained how the issues raised relating to specific definitions relate to Pennsylvania's compliance with its obligations pursuant to the portions of CAA section 110(a)(2) at issue in this rulemaking. EPA disagrees with the Commenter concerning the ozone classification definitions because these terms are not directly relevant to the issues germane to the infrastructure SIP action. The definitions relating to ozone nonattainment areas may be relevant to Pennsylvania's compliance with CAA section 110(a)(2)(I). However, as indicated in EPA's NPR, the SIP submittals at issue do not pertain to CAA section 110(a)(2)(I) and EPA's action does not pertain to the applicable requirements of CAA Chapter I, part D (relating to nonattainment areas). These requirements, and issues pertaining only to nonattainment areas for a specific NAAQS, are not required to be addressed on the same schedule as issues pertaining to other general requirements of CAA section 110(a)(1) and 110(a)(2). Therefore, this comment is not relevant to EPA's action and EPA does not have any obligation to respond to such comments. EPA disagrees with the Commenter concerning the $PM_{2.5}$ definition issue because the Pennsylvania SIP currently includes a definition of the $PM_{2.5}$ NAAQS. Section 121.1 defines the term NAAQS as National Ambient Air Quality Standards. In accordance with 25 Pa. Code section 131.2, as EPA promulgates new or revised NAAQS, Pennsylvania incorporates the NAAQS by reference. Therefore, the Pennsylvania SIP provides a definition of the $PM_{2.5}$ NAAQS that is consistent with the CAA. As a related matter, Pennsylvania recently revised its nonattainment NSR rules. Section 121.1 contains a specific entry for $PM_{2.5}$ which states ''*$PM_{2.5}$*—Particulate matter with an aerodynamic diameter of less than or equal to a nominal 2.5 micrometer body as measured by the applicable reference method or an equivalent method.'' These revised rules were subject to public comment and became effective on September 3, 2011. Pennsylvania submitted these NSR revisions including, but not limited to, 25 Pa. Code Section 121.1 to EPA for inclusion into the SIP on September 23, 2011, and EPA approved this revision on July 13, 2012. (*See* 77 FR 41276).

IV. Final Action

EPA is approving the Commonwealth of Pennsylvania's submittals that provide the infrastructure elements specified in CAA section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof, necessary to implement, maintain, and enforce the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS. EPA made completeness findings for the 1997 8-hour ozone NAAQS on March 27, 2008 (73 FR 16205) and on October 22, 2008 (73 FR 62902) for the 1997 $PM_{2.5}$ NAAQS. These findings pertained only to whether the submissions were complete, pursuant to CAA section 110(k)(1)(A), and did not constitute EPA approval or disapproval of such submissions. For the geographic area of Allegheny County, the completeness finding of March 27, 2008 (73 FR 16205) noted Pennsylvania's failure to submit a SIP revision addressing the portion of 110(a)(2)(C) relating to the Part C permit programs for the 1997 ozone NAAQS. EPA recognized that such requirement has already been addressed by a FIP that remains in place, and concluded that the finding of incompleteness would not trigger any additional FIP obligation for Pennsylvania. For all other areas of Pennsylvania, except for Allegheny County, EPA found that the Commonwealth had a SIP approved PSD program in place and found that the CAA section 110(a)(2) submittals at issue were complete.

Two elements identified in CAA section 110(a)(2) are not governed by the three year submission deadline of CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to CAA section 172. These elements are: (i) Submissions required by section

110(a)(2)(C) to the extent that the subsection pertains to a permit program in Part D Title I of the CAA; and (ii) any submissions required by section 110(a)(2)(I) which pertains to the nonattainment planning requirements of Part D Title I of the CAA. This action does not cover these specific elements. This action also does not address the requirements of 110(a)(2)(D)(i)(I) for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS.

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action pertaining to Pennsylvania's section 110(a)(2) infrastructure requirements for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS and the 2006 $PM_{2.5}$ NAAQS 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 7, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding entries at the end of the table for Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone NAAQS, Section 110(a)(2) Infrastructure Requirements for the 1997 $PM_{2.5}$ NAAQS, and Section 110(a)(2) Infrastructure Requirements for the 2006 $PM_{2.5}$ NAAQS. The amendments read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA Approval date	Additional explanation
*	*	*	*	*
Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone NAAQS.	Statewide	12/7/07, 6/6/08	9–25–12 [*Insert page number where the document begins*].	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M).

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA Approval date	Additional explanation
Section 110(a)(2) Infrastructure Requirements for the 1997 $PM_{2.5}$ NAAQS.	Statewide	12/7/07, 6/6/08, 4/26/10	9–25–12 [*Insert page number where the document begins*].	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M).
Section 110(a)(2) Infrastructure Requirements for the 2006 $PM_{2.5}$ NAAQS.	Statewide	4/26/10, 5/24/11	9–25–12 [*Insert page number where the document begins*].	This action addresses the following CAA elements or portions thereof: 110(a)(2)(A), (B), (C), (D), E), (F), (G), (H), (J), (K), (L), and (M).

* * * * *

[FR Doc. 2012–23497 Filed 9–24–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0458; FRL–9730–8]

Approval and Promulgation of Implementation Plans; Arizona; Nogales PM_{10} Nonattainment Area Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a state implementation plan revision submitted by the Arizona Department of Environmental Quality to address the moderate area PM_{10} (particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers) planning requirements for the Nogales nonattainment area. Consistent with this final action, EPA is approving the following plan elements as meeting the requirements of the Clean Air Act: The Nogales nonattainment area 2008 and 2011 emission inventories; the demonstration that the Nogales nonattainment area is attaining the National Ambient Air Quality Standard for PM_{10}, but for international emissions sources in Nogales, Mexico; the demonstration that reasonably available control measures sufficient to meet the standard have been implemented in the nonattainment area; the reasonable further progress demonstration; the demonstration that implementation of measures beyond those needed for attainment meet the contingency measure requirement; and, the motor vehicle emissions budget for the purposes of determining the conformity of transportation plans, programs, and projects with this PM_{10} plan.

DATES: *Effective Date:* This rule is effective on October 25, 2012.

Docket: EPA has established docket number EPA–R09–OAR–2012–0458 for this action. The index to the docket for this action is 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 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 at either location (e.g., confidential business information or 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: Jerry Wamsley, Air Planning Office, AIR–2, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, telephone number: (415) 947–4111, or email address, *wamsley.jerry@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' are used, we mean EPA. We are providing the following table of contents for ease of locating information in this proposal.

Table of Contents

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IV. EPA's Final Action
V. Statutory and Executive Order Reviews

I. EPA's Proposed Action

On June 27, 2012, EPA proposed to approve the proposed state implementation plan (SIP) revision submitted by the Arizona Department of Environmental Quality (ADEQ) on May 29, 2012 to address the Clean Air Act (CAA or ''Act'') requirements for areas classified as ''moderate'' nonattainment for the PM_{10} national ambient air quality standard (NAAQS), in this case, Nogales, Arizona. ADEQ submitted a plan for the Nogales nonattainment area (NA) entitled *Proposed State Implementation Plan Nogales PM_{10} Nonattainment Area,* referred to as the ''Nogales 2012 Plan'' here and in our proposal. See 77 FR 38400; (June 27, 2012). Specifically, under CAA section 110(k)(3), EPA proposed to approve the following elements of the Nogales 2012 Plan:

(1) The 2008 base year and 2011 emissions inventories as meeting the requirements of CAA section 172(c)(3);

(2) The demonstration of attainment but for international emissions as meeting the requirements of CAA section 179B(a)(1);

(3) The implementation of paving projects and capital improvement projects at the Ports of Entry within the Nogales NA prior to the CAA's 1994 attainment deadline as meeting the reasonably available control measure/reasonably available control technology (RACM/RACT) requirements of CAA sections 172(c)(1), 179B(a)(2), and 189(c)(1)(C);

(4) The implementation of paving projects and capital improvement projects at the Ports of Entry to meet the reasonable further progress (RFP) demonstration requirement of CAA sections 172(c)(2) and 179B(a)(2);

(5) The implementation of post-1994 paving projects as meeting the contingency measure requirements of CAA sections 172(c)(9) and 179B(a)(2); and,

(6) The 2011 attainment year motor vehicle emissions budget if revised to include road construction PM_{10}, because, as revised, it is derived from the section 179B demonstration and meets the requirements of CAA section 176(c) and 40 CFR 93, subpart A.

To summarize our proposal, first, we described the 24-hour PM_{10} NAAQS and its application to the Nogales NA and

how this resulted in the designation and classification of the Nogales NA as a moderate PM_{10} nonattainment area under the CAA. Then, we described, in general terms, the CAA planning requirements for moderate PM_{10} nonattainment areas, such as the Nogales NA, and touched briefly upon the 1993 Nogales PM_{10} Plan, which identified emissions sources from Nogales, Mexico as the principal sources of PM_{10} affecting ambient concentrations in Nogales, Arizona. See 77 FR 38401; (June 27, 2012).

Second, we presented Arizona's Nogales 2012 Plan, submitted by ADEQ on May 29, 2012, and described the ADEQ's concurrent request that EPA ''parallel process'' its review and proposed action on this plan. Then, we provided a brief description of the location and geography of the Nogales NA. The Nogales NA is located within Santa Cruz County in southern Arizona, approximately 60 miles south of Tucson, and covers 76.1 square miles. The southernmost boundary of the Nogales NA and Santa Cruz County is the United States (U.S.)/Mexico border. Adjacent to the U.S./Mexico border, the city of Nogales, Arizona is the largest city and population center in the Nogales NA. Directly across the U.S./Mexico border from Nogales, Arizona is the much larger city of Nogales, Mexico.[1] See 77 FR 38401–38402; (June 27, 2012).

Third, we discussed in detail the CAA and statutory requirements for moderate PM_{10} nonattainment areas as applied to the Nogales NA, given the area's air quality is influenced by international sources of PM_{10} emissions from Nogales, Mexico.[2] Specifically, in lieu of a demonstration that the area would actually attain the PM_{10} NAAQS, section 179B of the CAA allows Arizona to submit a demonstration that the Nogales NA would have attained the PM_{10} NAAQS but for international transport of PM_{10} from Mexico. Under CAA section 179B, however, other SIP requirements, such as RACM and contingency measures, among other requirements, continue to apply to PM_{10} nonattainment areas even if the area qualifies for relief from the attainment demonstration requirement. See 77 FR 38402–38404; (June 27, 2012).

The primary criterion we applied for determining attainment of the PM_{10} NAAQS but for international emissions was 40 CFR part 50, appendix K. Under 40 CFR part 50, appendix K, a nonattainment area meets the 24-hour PM_{10} NAAQS when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter ($\mu g/m^3$) is equal to or less than one. To demonstrate that the Nogales NA has met the PM_{10} standard ''but for'' emissions from Mexico, Arizona's analysis had to show that no more than three exceedances over its specific three-year analysis period, 2007–2009, based on data completeness and every day sampling, would have occurred on the U.S. side of the border, setting aside contributions from Mexican sources of PM_{10}. See 77 FR 38404; (June 27, 2012).

In the fourth section of our proposal, we reviewed the Nogales 2012 Plan and its constituent parts against the applicable CAA statutory and regulatory requirements.

Emissions Inventories. The 2008 base year and 2011 emissions inventories were reviewed for compliance with the requirements of CAA section 172(c)(3). For the reasons set forth in the proposed rule, we concluded that the inventories are comprehensive, accurate, and current inventories of actual emissions from all sources in the nonattainment area and therefore meet the requirements of section 172(c)(3). See 77 FR 38404–38405; (June 27, 2012).

Section 179B or ''But For'' Demonstration. Arizona's demonstration of attainment but for international emissions for the Nogales NA was reviewed for compliance with section 179B(a)(1). To summarize briefly Arizona's demonstration, Arizona reviewed local population growth data, Nogales, Mexico and Nogales NA emissions inventories, the ambient PM_{10} data, and local meteorological data, and through its analyses, Arizona found that the Ambos Nogales area's meteorology and topography influence the observed exceedances of PM_{10} NAAQS and there is a definite south-to-north directional component to the ambient air quality data underlying the exceedances of the PM_{10} NAAQS. Finally, daily and hourly analyses of the most recent three years of quality assured and State certified ambient PM_{10} data from 2007–2009 and associated meteorological data showed that no more than two, and likely none, of the 29 exceedances would have occurred in the Nogales NA, but for PM_{10} emissions from Mexico. Based on these two exceedances, data completeness, and every day sampling for the 2007–2009 timeframe, the calculated maximum expected annual exceedance rate is 0.7 exceedances per year. The standard used to demonstrate attainment of the PM_{10} NAAQS, ''but for'' international emissions, is that the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ must be equal to or less than one. Therefore, we proposed to determine that Arizona has met this standard and to approve its section 179B analysis and demonstration of attainment but for international emissions for the Nogales NA. See 77 FR 38405–38416; (June 27, 2012).

RACM/RACT. The implementation of paving projects and capital improvement projects at the Ports of Entry within the Nogales NA prior to the CAA's 1994 attainment deadline were reviewed under the RACM/RACT requirements of CAA sections 172(c)(1), 179B(a)(2), and 189(c)(1)(C). Based on that review, we concluded that the implementation of paving projects and capital improvement projects at the Ports of Entry within the Nogales NA prior to the 1994 attainment deadline met the RACM/RACT requirements of CAA sections 172(c)(1), 179B(a)(2), and 189(c)(1)(C). See 77 FR 38416–38417; (June 27, 2012).

Reasonable Further Progress. The implementation of paving projects and capital improvement projects at the Ports of Entry were reviewed under the RFP demonstration requirement of CAA sections 172(c)(2) and 179B(a)(2). Based on that review, we concluded that the implementation of paving projects and capital improvement projects at the Ports of Entry met the RFP demonstration requirement of CAA sections 172(c)(2) and 179B(a)(2). See 77 FR 38417–38418; (June 27, 2012).

Contingency Measures. The implementation of post-1994 paving projects were reviewed under the contingency measure requirements of CAA sections 172(c)(9) and 179B(a)(2). Based on that review, we concluded that the implementation of post-1994 paving projects met the contingency measure requirements of CAA sections 172(c)(9) and 179B(a)(2). See 77 FR 38417–38418; (June 27, 2012).

Motor Vehicle Emissions Budget. Finally, the 2011 attainment year motor vehicle emissions budget (MVEB) was reviewed against the requirements of CAA section 176(c) and of 40 CFR 93, subpart A. Based on that review, we concluded that the MVEB, if it included road construction dust when submitted in its final form, would meet the requirements of CAA section 176(c) and

[1] In 2010, Nogales, Arizona had 20,017 inhabitants (U.S. Census Bureau 2010) and Nogales, Mexico had 212,533 inhabitants (Instituto Nacional de Estadistica Geografia e Informatica, (INEGI) 2010).

[2] In particular, we described our preliminary interpretations of the applicable statutory provisions as set forth in the following guidance documents: The ''General Preamble to Title I of the Clean Air Act'' at 57 FR 132498; (April 16, 1992) and 57 FR 18070; (April 28, 1992); and ''The Addendum to the General Preamble'' at 59 FR 41998; (August 16, 1994).

of 40 CFR 93, subpart A. See 77 FR 38418–38419; (June 27, 2012).

Within our proposal, we anticipated the necessity for ADEQ to revise the MVEB to include road construction dust emissions; therefore, we required a second public comment period before Arizona could provide its final submittal containing the revised MVEB. The State's final submittal and the revised MVEB are discussed further in the next section.

II. Arizona's Submittal of the Final 2012 Nogales Plan

We proposed approval of the Nogales 2012 Plan based on the public draft version of the plan submitted to us by ADEQ as an enclosure to a letter requesting EPA to ''parallel process'' the plan prior to its submittal in final and adopted form as a revision to the Arizona SIP. We indicated in our proposal that, while we could propose action, we would not take final action on the Nogales 2012 Plan until the plan had been fully adopted by ADEQ and submitted formally to EPA for approval as part of the Arizona SIP.[3] As discussed in more detail below, on August 24, 2012, ADEQ adopted and submitted the *Final 2012 State Implementation Plan Nogales PM_{10} Nonattainment Area,* dated August 24, 2012, herein referred to as ''Final Nogales 2012 Plan''. This plan is the subject of today's final action.

A. Arizona's Submittal of the Final Nogales 2012 Plan and Clean Air Act Procedural Requirements

In our review of the Nogales 2012 Plan, dated May 29, 2012, and in our proposal, we noted the need for Arizona to include road construction dust within the plan's MVEB and notified ADEQ prior to the close of its initial 30-day public comment period on the Nogales 2012 Plan.[4] In addition, ADEQ identified the need to revise the MVEB to include vehicle brake and tire wear emissions along with the previously included vehicle exhaust and entrained road dust emissions. Thus, in response to our comments and its own review of the MVEB, ADEQ revised the MVEB in the Nogales 2012 Plan to include road construction dust and vehicle brake and tire wear emissions, and on July 24, 2012 provided for a 30-day public review of this revised MVEB. On August 24, 2012, ADEQ then adopted and submitted the Final Nogales 2012 Plan on which we are taking final action today. The Final Nogales 2012 Plan includes the revised MVEB.

Under EPA's ''parallel processing'' procedure, EPA proposes rulemaking action on a proposed SIP revision concurrently with the State's public review process. If the State's proposed SIP revision is changed, EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, EPA will propose a final rulemaking on the SIP revision after responding to any submitted comments. Final rulemaking action by EPA will occur only after the final SIP revision has been fully adopted by ADEQ and submitted formally to EPA for approval as part of the Arizona SIP. See 40 CFR part 51, appendix V.

Because we anticipated the need to include road construction dust within the MVEB, noted this need in our proposal, and provided a 30-day public comment period concerning this revision to include road construction dust, we are not re-proposing approval of the revised MVEB included in the Final Nogales 2012 Plan. Prior to its August 24, 2012 submittal of the Final Nogales 2012 Plan, the State provided a 30-day public review and comment period of the revised MVEB including road construction dust and brake and tire wear emissions. In sum, these revisions to the Nogales PM_{10} MVEB have been presented to the public for as many as 60 days and neither we nor ADEQ have received public comment. As submitted by Arizona in the Final Nogales 2012 Plan, the MVEB revisions are discussed below.

B. Revisions to the Motor Vehicle Emissions Budget

We proposed to approve the MVEB for the Nogales NA contingent upon ADEQ's inclusion of road construction PM_{10} in the MVEB. As we noted in the proposed rule, road construction PM_{10} should be included in the MVEB because, as the second largest source of PM_{10} emissions generated within the Nogales NA, road construction PM_{10} is a significant contributor to the overall Nogales NA PM_{10} inventory.[5] See 40 CFR 93.122(e). While road construction dust was included within the 2008 and 2011 emissions inventories provided by ADEQ, these emissions were not included in the MVEB for the Nogales 2012 Plan as submitted by ADEQ on May 29, 2012.

As noted above, ADEQ revised the MVEB in the Final Nogales 2012 Plan to include road construction dust (see Table 1 below) and to include brake and tire wear emissions (see discussion in next section of this document).

TABLE 1—2011 NOGALES NA PM_{10} MOTOR VEHICLE EMISSIONS BUDGET

[tons]

Source category	PM_{10}
Unpaved Road Dust	864.9
Road Construction Dust	267.0
Paved Road Dust	121.4
On-road Gasoline and Diesel Vehicle Emissions, including Brake, Tire Wear, and Vehicle Exhaust	21.0
Total	1,274.3

Source: Table 7.1 of the Final Nogales 2012 Plan and ''2008 and 2011 p.m.10 Emissions Inventories for the Nogales NA, Santa Cruz County, Arizona'' in Appendix B of the Final Nogales 2012 Plan.

Because Arizona included road construction dust as we recommended in our proposed approval of the Nogales 2012 Plan, we are taking final action to approve the Nogales NA PM_{10} MVEB at 1,274.3 tons. For our broader discussion of the Nogales 2012 Plan and how the MVEB meets statutory requirements, please see the proposed rule at 77 FR 38418—38419.

C. Revisions to the 2008 and 2011 Emissions Inventories' Mobile Source Emissions Estimates

In reviewing the mobile source emissions estimates within the 2008 and 2011 emissions inventories for the MVEB in the Final Nogales 2012 Plan, ADEQ discovered that vehicle brake and tire wear emissions were not included in the 2008 and 2011 emissions inventories or the corresponding MVEB presented in the Nogales 2012 Plan, submitted May 29, 2012.[6] As a result, the 2008 and 2011 emissions inventories did not include the seven tons per year of PM_{10} emissions attributed to vehicle brake and tire wear. ADEQ revised the Nogales NA emissions inventories and MVEB accordingly for the Final Nogales 2012 Plan and thereby increased the Nogales NA PM_{10} inventory total from 1,524 to 1,531 tons in 2008 and from 1,521 to 1,528 tons in 2011, an increase of less than 0.5 percent across the Nogales NA emissions inventories.

While including brake and tire wear emissions is important for accuracy and compiling the MVEB, the material effect on any subsequent analyses using emissions inventory data in the Final

[3] See footnote two of the proposed rule at 77 FR 38401; (June 27, 2012).

[4] See correspondence from Lisa Hanf, EPA to Eric Massey, ADEQ, dated June 21, 2012.

[5] See 77 FR 38419 (June 27, 2012).

[6] See Appendices 1 and 2 containing the MOVES model output files within Nogales NA 2008 and 2011 Emissions Inventories within Appendix B of the Nogales 2012 Plan.

Nogales 2012 Plan is inconsequential. For example, in 2008, adding brake and tire wear emissions to the Nogales NA emissions inventory increases its largest share of the total Ambos Nogales regional emissions inventory by less than 0.1 percent, from 35.97 to 36.07 percent.[7] Therefore, it remains accurate for the purposes of analysis to assign to the Nogales NA a maximum of 36 percent of total Ambos Nogales regional PM_{10} emissions; consequently, no revisions are required for the section 179B demonstration and supporting analyses presented within the Final Nogales 2012 Plan.

By revising the Nogales NA emissions inventories for 2008 and 2011 and revising the MVEB resulting from the 2011 emissions inventory, ADEQ has corrected the oversight of not including the brake and tire wear emissions in the previously presented emissions inventories. The MVEB provided in Arizona's Final Nogales 2012 Plan submittal accurately includes all on-road sources of PM_{10} as estimated within the 2011 Nogales NA emissions inventory. Also, the revised 2008 and 2011 emissions inventories for the Nogales NA within the Final Nogales 2012 Plan provide a comprehensive, accurate, and current inventory of actual emissions from all sources within the nonattainment area.

III. Public Comments

EPA's proposed rule provided a 30-day public comment period. During this period, we received no comments on our proposal. Furthermore, Arizona received no comments during its 30-day comment period presenting the revised MVEB for public review, prior to its submittal of the Final Nogales 2012 Plan.

IV. EPA's Final Action

Under CAA section 110(k), and for the reasons set forth in our June 27, 2012 proposed rule and summarized herein, EPA is approving the *Final 2012 State Implementation Plan Nogales PM_{10} Nonattainment Area* (''Final Nogales 2012 Plan''), submitted by ADEQ on August 24, 2012, for the Nogales, Arizona ''moderate'' PM_{10} nonattainment area. Specifically, EPA is approving the following elements of the Final Nogales 2012 Plan:

(1) The 2008 base year and 2011 emissions inventories as meeting the requirements of CAA section 172(c)(3);

(2) The demonstration of attainment but for international emissions as meeting the requirements of CAA section 179B(a)(1);

(3) The implementation of paving projects and capital improvement projects at the Ports of Entry within the Nogales NA prior to the CAA's 1994 attainment deadline as meeting the RACM/RACT requirements of CAA sections 172(c)(1), 179B(a)(2), and 189(c)(1)(C);

(4) The implementation of paving projects and capital improvement projects at the Ports of Entry to meet the RFP demonstration requirement of CAA sections 172(c)(2) and 179B(a)(2);

(5) The implementation of post-1994 paving projects as meeting the contingency measure requirements of CAA sections 172(c)(9) and 179B(a)(2); and,

(6) The 2011 attainment year motor vehicle emissions budget because it is derived from the section 179B demonstration and meets the requirements of CAA section 176(c) and of 40 CFR 93, subpart A.

Even with our approval of Arizona's demonstration that the Nogales NA is attaining the PM_{10} NAAQS but for international transport from Mexico, this final action approving the Final Nogales 2012 Plan does not constitute a redesignation to attainment because we have not determined that the area has met the CAA requirements for redesignation under section 107(d)(3)(E). The classification and designation status in 40 CFR part 81 remains moderate nonattainment for the Nogales NA until such time as EPA determines that Arizona has met the CAA requirements for redesignating the Nogales NA to attainment for the PM_{10} NAAQS.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 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 those choices meet the criteria of the Clean Air Act. Accordingly, this action merely approves a state plan 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 action 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

[7] The previous Nogales NA 2008 emissions inventory of 1,524 tons divided by 4,237 tons, representing total Ambos Nogales regional PM_{10} emissions, provides the 35.97 percent share. The revised Nogales NA 2008 emissions inventory of 1,531 tons divided by 4,244 tons, representing total Ambos Nogales regional PM_{10} emissions, provides the 36.07 percent share. The 2008 Nogales, Mexico share remains constant at 2,713 tons as part of estimating the Ambo Nogales regional total. See Appendix A of the Final Nogales 2012 Plan for the detailed review and comparison of Nogales NA and Nogales, Mexico emissions inventories from which these figures are taken.

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 November 26, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 24, 2012.

Alexis Strauss,

Acting Regional Administrator, EPA 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 D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(150) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(150) The following plan was submitted on August 24, 2012, by the Governor's designee.

(i) [Reserved]

(ii) Additional material.

(A) Arizona Department of Environmental Quality.

(*1*) ''Final 2012 State Implementation Plan Nogales PM_{10} Nonattainment Area,'' dated August 24, 2012, including Appendices A–K, adopted on August 24, 2012.

* * * * *

[FR Doc. 2012–23118 Filed 9–24–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–1034; FRL–9732–1]

Disapproval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions To Open Burning Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is disapproving a State Implementation Plan (SIP) revision submitted by the State of Utah on December 10, 1999. This revision to R307–202 Emission Standards: General Burning authorizes the State to extend the time period for open burning. EPA is disapproving the submitted revision because it does not meet the requirements of section 110(l) of the Clean Air Act (CAA). This action is being taken under section 110 of the CAA.

DATES: This final rule is effective October 25, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2007–1034. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, U.S. Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Crystal Freeman, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6602, *freeman.crystal@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The initials *AQS* mean or refer to Air Quality System.

(ii) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(iii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iv) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.

(v) The initials *SIP* mean or refer to State Implementation Plan.

(vi) The words *Utah* or *State* mean the State of Utah.

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I. Background
II. Response to Comments
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I. Background

On December 10, 1999, the State of Utah submitted a SIP revision to Rule R307–202 Emission Standards: General Burning. This rule contains the following provisions: definitions and exclusions, community waste disposal, general prohibitions, permissible burning—without permit, permissible burning with permit, and special conditions.

The proposed revision is found within the 'permissible burning with permit' in section R307–202–5(3)(e)(i). The revision extends the time period during which open burning could be authorized. The current burning period in the rule is from March 30 to May 30, the revision would extend the beginning of the burning period to March 1. This would allow an additional 30 days to the open burning period. The revision to the rule is based on a request from the Washington County Mayors Association to change the beginning date to accommodate areas of the State that were dry enough to burn earlier in the year.

In our analysis of ambient air quality monitoring data, as described in our June 19, 2012 (77 FR 36443) proposed rule, EPA found that the relaxation of the open burning rule could contribute to further degradation of air quality within the State of Utah. Specifically, the analysis demonstrates that further degradation of air quality could occur in Utah's $PM_{2.5}$ nonattainment areas where

violations of the $PM_{2.5}$ standard have been recorded during periods covered by the State's proposed extension of the open burning period. In the absence of a section 110(l) analysis or demonstration by the State of Utah showing that extending the burning period would not cause a $PM_{2.5}$ violation, EPA cannot determine that this revision would not interfere with attainment and maintenance of the NAAQS.

II. Response to Comments

EPA did not receive comments on our June 19, 2012 **Federal Register** proposed action regarding the disapproval of Utah's SIP revision to their R307–202 Emission Standards: General Burning rule.

III. Section 110(l) of the CAA

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. The revision to Utah's R307–202 Emission Standards: General Burning could relax the existing SIP requirements by extending the open burn window. Because the State has not analyzed the effect of the extension of the open burn window, EPA cannot conclude that the revision would or would not interfere with attainment and maintenance of the NAAQS. As a result, EPA is disapproving the proposed revision pursuant to section 110(l).

IV. Final Action

EPA is disapproving the SIP revision to R307–202 Emission Standards: General Burning submitted by the State on December 10, 1999. Without a section 110(l) analysis or demonstration, EPA finds that the revision relaxes the control on open burning and could potentially interfere with the attainment and maintenance of the NAAQS.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve or disapprove state choices, depending on whether they meet the criteria of the Clean Air Act. With this final action EPA is merely disapproving a state law as not meeting Federal requirements, and is not imposing additional requirements beyond those imposed by state law.

A. Executive Order 12866: Regulatory Planning and Review

Because this disapproval only applies to a date change for Utah's General Burning window, the action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

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). The disapproval only applies to a date change for Utah's General Burning window.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

EPA's final rule consists of a disapproval of Utah's General Burning rule submission. The revision would extend the General Burning window an extra month, which requires a CAA section 110(l) analysis to show no relaxation of the rule. Since Utah did not submit a section 110(l) analysis for this revision EPA is disapproving the submittal. The disapproval of the SIP, merely disapproves the state law as not meeting federal requirements and does not imposes any additional requirements.

D. Unfunded Mandates Reform Act (UMRA)

This action 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).

Under Title II of UMRA, EPA has determined that this final rule does not contain a federal mandate that may result in expenditures that exceed the inflation-adjusted UMRA threshold of $100 million by State, local, or Tribal governments or the private sector in any one year. In addition, this final rule does not contain a significant federal intergovernmental mandate as described by section 203 of UMRA nor does it contain any regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal

government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the State, on the relationship between the national government and the State, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely addresses the State not fully meeting its obligation under section 110(l) of the CAA. Thus, Executive Order 13132 does not apply to this action.

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

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

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

Executive Order 13045: *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. EPA interprets EO 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it implements specific standards established by Congress in statutes. However, to the extent this final rule is disapproving a possible relaxation to Utah's General Burning rule, it will have a beneficial effect on children's health by not allowing additional air pollution.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involved technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

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

We have determined that this final rule will not have a disproportionately high and adverse human health or environmental effects on minority or low-income populations because it disapproves a possible relaxation of Utah's rule where increases in emissions are possible.

In addition, this final action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP being disapproved would not apply in Indian country located in the state, and it would 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 November 26, 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) of the CAA.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: September 10, 2012.

James B. Martin,

Regional Administrator, Region 8.

[FR Doc. 2012–23516 Filed 9–24–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120201086–2418–02]

RIN 0648–XC235

Fisheries of the Northeastern United States; Bluefish Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2012 commercial bluefish quota to the State of New Hampshire. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective September 25, 2012, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, 978–281–9224.

SUPPLEMENTARY INFORMATION: Regulations governing the bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.162.

The final rule implementing Amendment 1 to the Bluefish Fishery Management Plan, which was published on July 26, 2000 (65 FR 45844), provided a mechanism for bluefish quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine bluefish commercial quota under § 648.162(e). The Regional Administrator is required to consider the criteria in § 648.162(e)(1) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 100,000 lb (45,359 kg) of its 2012 commercial quota to New Hampshire. This transfer was prompted by the diligent efforts of state officials in New Hampshire not to exceed the commercial bluefish quota. The Regional Administrator has determined that the criteria set forth in § 648.162(e)(1) have been met. The revised bluefish quotas for calendar year 2012 are: North Carolina, 3,207,827 lb (1,445,046 kg); and New Hampshire, 142,765 lb (64,757 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: September 20, 2012.

James P. Burgess,

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

[FR Doc. 2012–23605 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 186
Tuesday, September 25, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–0260; Notice No. 25–12–05–SC]

Special Conditions: Embraer S.A. Model EMB–550 Airplanes, Sudden Engine Stoppage

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Embraer Model EMB–550 airplane. This airplane will have a novel or unusual design feature associated with the effects of sudden engine stoppage upon the airframe. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Submit your comments on or before October 26, 2012.

ADDRESSES: Send comments identified by docket number FAA–2011–0260 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Cindy Ashforth, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2768; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On May 14, 2009, Embraer applied for a type certificate for their new Model EMB–550 airplane. The Model EMB–550 airplane is the first of a new family of jets designed as a corporate jet, and for fractional, charter, and private-owner operations. The airplane is a conventional configuration with a low wing and T-tail empennage. The primary structure is metal with composite empennage and control surfaces. The Model EMB–550 airplane is designed for eight passengers, with a maximum of 12 passengers (including toilet seat). It is equipped with two Honeywell HTF7500–E medium-bypass-ratio turbofan jet engines mounted on aft-fuselage pylons. Each engine produces approximately 6,540 lb of thrust for normal takeoff. The primary flight-control systems are electronically controlled using fly-by-wire (FBW) technology.

The Model EMB–550 airplane incorporates novel or unusual design features involving engine size and torque load that affect the airframe as it relates to sudden engine-stoppage conditions.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Embraer must show that the Model EMB–550 airplane meets the applicable provisions of part 25, as amended by Amendments 25–1 through 1–127.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model EMB–550 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the Model EMB–550 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise-certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model EMB–550 airplane will incorporate the following novel or unusual design features:

The engine proposed for the Embraer Model EMB–550 airplane is a medium-bypass-ratio turbofan jet engine that will not seize and produce transient torque loads in the same manner that is envisioned by current § 25.361(b)(1) related to ''sudden engine stoppage.''

Discussion

The limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport-category airplanes since 1957. In the past, the design torque loads associated with typical failure scenarios have been estimated by the engine manufacturer and provided to the airframe manufacturer as limit loads. These limit loads were considered simple, purely static torque loads. The size, configuration, and failure modes of jet engines have changed considerably from what was envisioned when the engine-seizure requirement of § 25.361(b) was first adopted. Current engines are much larger and are now designed with large bypass fans capable of producing much larger torque loads if they become jammed.

Relative to the engine configurations that existed when the rule was developed in 1957, the present generation of engines are sufficiently different and novel to justify issuance of special conditions to establish appropriate design standards. The latest generations of jet engines are capable of producing, during failure, transient loads that are significantly higher and more complex than the generation of engines that were present when the existing standard was developed. Therefore, the FAA has determined that special conditions are needed for the Embraer Model EMB–550 airplane.

To maintain the level of safety envisioned in § 25.361(b), more comprehensive criteria are needed for the new generation of high-bypass engines. The special conditions would distinguish between the more common engine-failure events and those rare events resulting from structural failures. For these less common but more severe seizure events, the criteria (as stated in special conditions numbers 3 and 4, below) could allow some deformation in the engine-supporting structure (ultimate load design) to absorb the higher energy associated with the high-bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing a higher safety factor. The criteria for the more-severe events would no longer be a purely static torque-load condition, but would account for the full spectrum of transient dynamic loads developed from the engine-failure condition.

Applicability

As discussed above, these special conditions are applicable to the Model EMB–550 airplane. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type-certification basis for the Embraer Model EMB–550 airplane. In lieu of 14 CFR 25.361(b), the following special conditions are proposed:

1. For turbine-engine installations, the engine mounts, pylons, and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(a) Sudden engine deceleration due to a malfunction that could result in a temporary loss of power or thrust, and

(b) The maximum acceleration of the engine.

2. For auxiliary power unit (APU) installations, the APU mounts and adjacent supporting airframe structure must be designed to withstand 1g level flight loads acting simultaneously with the maximum limit torque loads imposed by each of the following:

(a) Sudden APU deceleration due to malfunction or structural failure; and

(b) The maximum acceleration of the APU.

3. For engine-supporting structure, an ultimate loading condition must be considered that combines 1g flight loads with the transient dynamic loads resulting from:

(a) The loss of any fan, compressor, or turbine blade; and separately

(b) Where applicable to a specific engine design, any other engine structural failure that results in higher loads.

4. The ultimate loads developed from the conditions specified in paragraphs 3(a) and 3(b) are to be multiplied by a factor of 1.0 when applied to engine mounts and pylons, and multiplied by a factor of 1.25 when applied to adjacent supporting airframe structure.

5. Any permanent deformation that results from the conditions specified in Special Condition 3, above, must not prevent continued safe flight and landing.

Issued in Renton, Washington, on September 6, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–23536 Filed 9–24–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1014; Directorate Identifier 2010–SW–058–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (Eurocopter) Helicopters

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Eurocopter Model SA–365N1, AS–365N2, and AS365N3 helicopters. This proposed AD would revise the Limitations section of the Rotorcraft Flight Manual (RFM) to prohibit flight in instrument meteorological conditions (IMC) or night visual flight rules (VFR) for each helicopter with a vertical gyro unit GV76–1 installed upon a non-reinforced shelf in the rear cargo compartment. Also, this proposed AD would require modifying the GV76–1 vertical gyro unit shelf and testing for correct function of the navigation systems. This proposed AD is prompted by flight crew reports of deviations between the displayed attitude on the attitude display screen and the independent electromechanical standby attitude indicator. The proposed actions

are intended to prevent an undetected flight display error of a slow drift in the roll axis, disorientation of the pilot, and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by November 26, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

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

FOR FURTHER INFORMATION CONTACT: Mark F. Wiley, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5134, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2010–0100R1, dated August 4, 2010, and corrected August 11, 2010, to correct an unsafe condition for the specified Eurocopter model helicopters. EASA advises that a slow drift in the roll axis on the pilot's and co-pilot's attitude display screens occurred simultaneously during flight on several helicopters equipped with the GV76–1 vertical gyro unit installed in the rear cargo compartment. EASA advises ''these drifts were caused by a fault in the vertical gyros unit installation in the rear cargo.'' EASA states that in certain configurations, the GV76–1 vertical gyro unit installation has a natural mode close to the main rotor's harmonic frequency that generates rather significant vibratory levels on the GV76–1 unit by amplifying the intrinsic vibration of the aircraft. The faults are caused by these vibratory levels. EASA also states that the critical mode is essentially due to bending on the horizontal cross-members, which support the GV76–1 shelf.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

Eurocopter has issued an Alert Service Bulletin (ASB) No. 34.00.31 Revision 1, dated July 28, 2010 (ASB 34.00.31), for FAA type-certificated Model SA–365N1, AS–365N2, and AS365N3 helicopters and for military non-FAA type-certificated Model AS–365F, Fi, and K helicopters. ASB 34.00.31 specifies reinforcing the shelves of the vertical gyros GV76–1 (in cargo compartment) on the right hand (RH) or left-hand (LH) side. EASA classified this ASB as mandatory and issued AD No. 2010–0100R1, dated August 4, 2010, and corrected August 11, 2010, to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would require:

- Before further flight, revising the Limitations section of the Rotorcraft Flight Manual (RFM) to prohibit flight in instrument meteorological conditions (IMC) or night visual flight rules (VFR) for each helicopter with a vertical gyro unit GV76–1 installed on the rear cargo compartment shelf without reinforcement per Modification 365P081895.
- Within 110 hours time-in-service, modifying the GV76–1 vertical gyro unit shelf by complying with the Accomplishment Instructions, paragraphs 2.A. through 2.B.2.e. of the ASB. After reinforcing the shelf, operationally testing the GV76–1 vertical gyro unit and functionally test the navigation systems.
- Modifying the GV76–1 vertical gyro unit shelf is terminating action for the requirements of this AD.
- After modifying the GV76–1 vertical gyro unit shelf, removing this AD or deleting any changes to the Limitations section of the RFM that prohibit flight in IMC or VFR as a result of this AD.

Differences Between This Proposed AD and the EASA AD

We do not use the calendar dates, which have already passed. This AD prohibits flight in IMC or night VFR until MOD 365P081895 is accomplished.

Costs of Compliance

We estimate that this proposed AD would affect 19 helicopters of U.S. registry. We also estimate that it would take about 16 work hours to install a

shelf reinforcement kit per helicopter at an average labor rate of $85 per work hour. Required parts would cost about $2,560 per helicopter. Based on these figures, we estimate the total cost of the proposed AD on U.S. operators to be $74,480 to reinforce the shelf of the entire fleet.

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter France: Docket No. FAA–2012–1014; Directorate Identifier 2010–SW–058–AD.

(a) Applicability

This AD applies to Model SA–365N1, AS–365N2, and AS 365 N3 helicopters, with the GV76–1 vertical gyro unit installed on the left-hand (LH) or right-hand (RH) shelf in the rear cargo compartment, pre-MOD 365P081895, certificated in any category, all serial numbers except 6698, 6701, 6723, 6737, and 6741.

(b) Unsafe Condition

This AD defines the unsafe condition as an undetected flight display error of a slow drift in the roll axis. This condition could result in disorientation of the pilot and subsequent loss of control of the helicopter.

(c) Compliance

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

(d) Required Actions

(1) Before further flight, revise the Limitations section of the Rotorcraft Flight Manual (RFM) by inserting a copy of this AD into the RFM or by pen and ink changes to the RFM that prohibits flight in instrument meteorological conditions (IMC) or night visual flight rules (VFR) for each helicopter with a vertical gyro unit GV76–1 installed on the rear cargo compartment shelf without reinforcement per Modification 365P081895.

(2) Within 110 hours time-in-service, modify the GV76–1 vertical gyro unit shelf as depicted in Figures 1 through 3 and by following the Accomplishment Instructions, paragraphs 2.A. through 2.B.2.e., of Eurocopter Alert Service Bulletin No. 34.00.31, Revision 1, dated July 28, 2010. After reinforcing the shelf, operationally test the GV76–1 vertical gyro unit and functionally test the navigation systems.

(3) After modifying the GV76–1 vertical gyro unit shelf, remove this AD from the Limitations section of the RFM or remove any changes to the Limitations section of the RFM that prohibit flight in IMC or VFR as a result of paragraph (d)(1) of this AD.

(4) Modifying the GV76–1 vertical gyro unit shelf is terminating action for the requirements of this AD.

(e) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Mark F. Wiley, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5134; email *mark.f.wiley@faa.gov.*

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

(f) Additional Information

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

(2) The subject of this AD is addressed in European Aviation Safety Agency AD No. 2010–0100R1, dated August 4, 2010, and corrected August 11, 2010.

(g) Subject

Joint Aircraft System/Component (JASC) Code: 3421: Attitude Gyro and Indicator System.

Issued in Fort Worth, Texas, on September 14, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–23444 Filed 9–24–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1015; Directorate Identifier 2007–SW–069–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the Eurocopter France (Eurocopter) Model AS332C, AS332L, and AS332L1 helicopters. This proposed AD is prompted by reports of electro-valve

power supply disruptions while a helicopter is on the ground, causing the landing gear to retract and the helicopter nose to drop. This results in damage to the forward section of the helicopter's bottom structure. This proposed AD would require modifying the main landing gear control panel (control panel) 33G, connector 100G, and wiring. It also would require tests to ensure that these modifications function correctly. We propose this AD to prevent an uncommanded landing gear retraction that would cause the helicopter nose to drop and hit the ground while the rotor blades are spinning.

DATES: We must receive comments on this proposed AD by November 26, 2012.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

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

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, Texas, 76137; telephone: (817) 222–5114; fax: (817) 222–5961; email: *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued AD No. 2006–0152, dated May 30, 2006 (AD 2006–0152), to correct an unsafe condition for the Eurocopter Model AS 332 C, AS 332 C1, AS 332 L, and AS 332 L1 helicopters with a control panel 33G, part number (P/N) 332A67–1623–00, –06, –0610, or –0651. EASA advises of electro-valve power supply disruptions, which caused the landing gear to retract and the helicopter to drop, resulting in damage to the forward section of the helicopter's bottom structure. AD 2006–0152 requires compliance with Eurocopter Alert Service Bulletin (ASB) No. 32.00.18, Revision 1, dated March 27, 2006, or later revisions. AD 2006–0152 supersedes Direction Generale de L'Aviation Civile France AD No. F–2005–100, dated June 22, 2005 (AD No. F–2005–100), which required compliance with ASB No. 32.00.18, any approved revision.

FAA's Determination

These helicopter models have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described above. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Related Service Information

We reviewed Eurocopter ASB No. 32.00.18, Revision 2, dated July 12, 2010, for Model AS332C, AS332C1, AS332L, and AS332L1 helicopters and military Model AS332B, AS332B1, AS332M, AS332M1, AS332F1 helicopters with the specified control panel 33G. That ASB states that electrical interferences on the solenoid valve power supply line have caused untimely retraction of the main landing gear, causing helicopters to sink, resulting in damage to the front section of the helicopter's bottom structure. The ASB describes procedures for modifying the main landing gear control tab on the control panel 33G, replacing the fixed connector on the control panel 33G, replacing the removable connector on the corresponding wiring, and testing the affected systems to ensure that these modifications function correctly. The ASB states that these actions are intended to prevent untimely power supply to the solenoid valve when the main landing gear control tab is on ''extended'' and to avoid main landing gear retraction. AD No. 2006–0152 classified portions of the ASB as mandatory.

Proposed AD Requirements

This proposed AD would require, within 90 days, modifying the control panel 33G, connector 100G, and wiring, and determining that these modifications are functioning correctly by conducting specific tests. The proposed actions would be accomplished in accordance with the specified portions of the ASB No. 32.00.18, Revision 2, dated July 12, 2010.

Differences Between This Proposed AD and the EASA AD

This proposed AD differs from the EASA AD as follows:

- This proposed AD requires compliance within 90 days, while the EASA AD requires compliance within 3 months. The EASA AD also addresses

spare parts, and this proposed AD does not address spare parts.

• The EASA AD requires a repeat of the tests for helicopters that have been modified in compliance with AD F–2005–100, and this proposed AD does not.

• The EASA AD also applies to the Model AS332C1 helicopter, and this proposed AD does not because this model does not have an FAA-issued type certificate.

Costs of Compliance

We estimate that this proposed AD would affect three helicopters of U.S. registry. We estimate the following costs to comply with this proposed AD:

We estimate that modification of the control panel, connector, and wiring would take one work hour to complete at $85 per hour, and that parts would cost $293. Performing function tests would take about 4.5 hours to complete, for a total labor cost of $383. Thus, we estimate a total cost per helicopter of $761, and a total cost of $2,283 for the fleet.

We do not control warranty coverage. Accordingly, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new Airworthiness Directive (AD):

Eurocopter France (Eurocopter): Docket No. FAA–2012–1015; Directorate Identifier 2007–SW–069–AD.

(a) Applicability

This AD applies to Eurocopter Model AS332C, AS332L, and AS332L1 helicopters not modified per modification (MOD) 0723817, MOD 0725670, MOD 332P083218 or MOD 332A088381, with a main landing gear control panel (control panel) 33G, part number (P/N) 332A67–1623–00, -06, -0610, or -0651; certificated in any category.

(b) Unsafe Condition

This AD is defines the unsafe condition as an uncommanded landing gear retraction, which could cause the helicopter nose to drop and hit the ground while the rotor blades are spinning.

(c) Compliance

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

(d) Required Actions

Within 90 days, modify the control panel 33G and connector 100G, route the 1GA5103E wiring, and perform the tests in accordance with the Accomplishment Instructions, Paragraphs 2.B 2.a. through 2.B.3.d., and as depicted in Figures 1 and 2, of Eurocopter Alert Service Bulletin No 32.00.18, Revision 2, dated July 12, 2010.

(e) Alternative Methods of Compliance (AMOC)

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

(f) Additional Information

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

(2) The subject of this AD is addressed in the European Aviation Safety Agency AD No. 2006–0152, dated May 30, 2006.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 3230, landing gear retract/extend system.

Issued in Fort Worth, Texas, on September 14, 2012.

Lance T. Gant,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–23460 Filed 9–24–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–161–FOR; Docket ID: OSM–2012–0009]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; extension of comment period and notice of public hearings.

SUMMARY: We are reopening and extending the public comment period and will be holding two public hearings on the proposed amendment to the Commonwealth of Pennsylvania's approved regulatory program (the ''Pennsylvania program'') published on July 11, 2012. The comment period is being reopened and extended in order to afford the public more time to comment and to allow ample time to conduct two public hearings. This extension was requested by the Citizens Coal Council and the Environmental Integrity Project. We are also notifying the public of the date, time, and locations for the public hearing. Pennsylvania is introducing beneficial use of coal ash into the Pennsylvania statutory scheme via Pennsylvania's Solid Waste Management Act (''SWMA''), the Clean Streams Law (''CSL''), the Surface Mining Conservation and Reclamation Act, and the Administrative Code. Pennsylvania intends to revise its approved program pursuant to the additional flexibility afforded by the revised Federal regulations and SMCRA, as amended, to ensure Pennsylvania's proposed provision is consistent with and in accordance with SMCRA and the corresponding regulations.

DATES: We will accept written comments until 4 p.m., eastern standard time (''EST'') on October 19, 2012. Two public hearings will be held on Wednesday, October 17, 2012, at 6 p.m. EST.

ADDRESSES: You may submit comments, identified by ''PA–161–FOR; Docket ID: OSM–2012–0009'' by either of the following two methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* The proposed rule has been assigned Docket ID: OSM–2012–0009. If you would like to submit comments through the Federal eRulemaking Portal, go to *http://www.regulations.gov* and follow the instructions.
- *Mail/Hand Delivery/Courier:* Mr. Ben Owens, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Suite 300, Pittsburgh, PA 15220.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see ''III. Public Comment Procedures'' in the **SUPPLEMENTARY INFORMATION** section of the proposed rule published on July 11, 2012.

Public Hearing: One public hearing will be held in Pittsburgh, Pennsylvania at the DoubleTree by Hilton Pittsburgh Green Tree, 101 Doubletree Drive, Pittsburgh, Pennsylvania, 15205; phone number: 412–922–8400, on Wednesday, October 17, 2012, at 6:00 p.m. EST. Simultaneously, a public hearing will be held in Pottsville, Pennsylvania at the Ramada Pottsville, at 101 South Progress Avenue, Pottsville, Pennsylvania, 17901; phone number 570–622–4600, on Wednesday, October 17, 2012, at 6:00 p.m. EST time.

Docket: For access to the docket to review copies of the Pennsylvania regulations, the relevant amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendments by contacting OSM's Pittsburgh Field Division Office; or you can view the full text of the program amendment available for you to read at *www.regulations.gov.*

In addition, you may review a copy of the amendment during regular business hours at one of the following locations:

Ben Owens, Chief Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating Center, 3 Parkway Center, 3rd Floor, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937– 2827, Email: *bowens@osmre.gov.*

Thomas Callaghan, P.G., Director, Bureau of Mining and Reclamation, Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5015, Email: *tcallaghan@state.pa.us.*

FOR FURTHER INFORMATION CONTACT: Ben Owens, Chief, Pittsburgh Field Division, Telephone: (412) 937–2827. Email: *bowens@osmre.gov.*

SUPPLEMENTARY INFORMATION: On July 11, 2012, (77 FR 40836) we published a proposed rule that would revise the Pennsylvania program. The revisions would add regulations to the Pennsylvania program to regulate coal ash. The key provisions of the rule address the operating requirements for beneficial use of coal ash upon active and abandoned mine land sites. The proposed amendment addition has the following components:

- Chemical and physical certification standards for coal ash to ensure compliance with beneficial use requirements;
- Coal ash monitoring to ensure coal ash meets qualification criteria;
- Water quality monitoring to create a robust dataset to facilitate the evaluation and documentation of water quality at sites where coal ash is beneficially used;
- A minimum number of monitoring points to characterize the groundwater;
- Recording of the landowner consent for placement of coal ash for beneficial use;
- Reporting of volumes and locations where coal ash is beneficially used;
- Operational and monitoring standards for all types of beneficial use;
- A centralized process to qualify coal ash for beneficial use at mine sites;
- An annual fee payable to the Department to offset some of its costs for coal ash and water quality sampling and testing at mine sites where coal ash is beneficially used; and
- Abatement plan requirements in the event that site assessments indicate groundwater or surface water degradation.

On July 19, 2012, (Administrative Record Number, PA 894.06) we received a request from the Citizens Coal Council to hold a public hearing on the amendment and to extend the public comment period. On July 25, 2012, (Administrative Record Number, PA 894.08), we received a request from the Center for Coalfield Justice to hold a public hearing on the amendment. We are granting the request to extend the public comment period to afford the public more time to comment on the amendment and to allow enough time to schedule and hold the hearings, as requested. The date, time and location for the public hearings may be found under **DATES** and **ADDRESSES** above.

The hearings will be open to anyone who would like to attend and/or testify. The primary purpose of the public hearing is to obtain your comments on the proposed rule so that we can prepare a complete and objective analysis of the proposal. The hearing officer will conduct the hearing and receive the comments submitted. Comments submitted during the hearing will be responded to in the preamble to the final rule, not at the hearing. We appreciate all comments, but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to, and analyses of, the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or relevant publications.

At the hearing, a court reporter will record and make a written record of the statements presented. This written record will be made part of the

administrative record for the rule. If you have a written copy of your testimony, we encourage you to give us a copy. It will assist the court reporter in preparing the written record. Any disabled individual who needs reasonable accommodation to attend the public hearing is encouraged to contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: August 13, 2012.

Michael K. Robinson,

Acting Regional Director, Appalachian Region.

[FR Doc. 2012–23521 Filed 9–24–12; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO27

Exempting In-Home Video Telehealth From Copayments

AGENCY: Department of Veterans Affairs.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is withdrawing VA's proposed rulemaking, published in the **Federal Register** on March 6, 2012, to amend its regulation that governs VA services that are not subject to copayment requirements for inpatient hospital care or outpatient medical care. Specifically, the regulation exempted in-home video telehealth care from having any required copayment. VA received no significant adverse comments concerning the proposed rule or its companion substantially identical direct final rule published on the same date in the **Federal Register**. In a companion document in this issue of the **Federal Register**, we are confirming that the direct final rule became effective on May 7, 2012. Accordingly, this document withdraws as unnecessary the proposed rule.

DATES: The proposed rule is withdrawn as of September 25, 2012.

FOR FURTHER INFORMATION CONTACT: Kristin J. Cunningham, Director Business Policy, Chief Business Office, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (202) 461–1599. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a proposed rule published in the **Federal Register** on March 6, 2012, 77 FR 13236, VA proposed to amend 38 CFR 17.108 to eliminate co-payments for in-home video telehealth. Additionally, VA published a companion substantially identical direct final rule at 77 FR 13195 on the same date. The direct final rule and proposed rule each provided a 30-day comment period that ended on April 5, 2012. No adverse comments were received. Two comments that supported the rulemaking were received from members of the general public.

Because no significant adverse comments were received within the comment period, VA is withdrawing the proposed rule as unnecessary. In a companion document in this issue of the **Federal Register**, VA is confirming the effective date of the direct final rule, RIN 2900–AO26, published at 77 FR 13195.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on September 18, 2012, for publication.

Dated: September 19, 2012.

Robert C. McFetridge,

Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2012–23514 Filed 9–24–12; 8:45 am]

BILLING CODE 8320–01–P

Notices

Federal Register
Vol. 77, No. 186
Tuesday, September 25, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Request for Aerial Photography.

OMB Control Number: 0560–0176.

Summary of Collection: The Farm Service Agency (FSA) Aerial Photography Field Office (APFO) has the authority to coordinate aerial photography work in USDA, develop and carry out aerial photography and remote sensing programs and the Agency's aerial photography flying contract programs. The film APFO secures is public domain and reproductions are available at cost to any customer with a need. FSA will collect information using the following three forms FSA–441, Request for Aerial Imagery, FSA 441B, Customer Digital Print Form, and FSA 441C APFO Service Quality Survey.

Need and Use of the Information: FSA will collect the name, address, contact name, telephone, fax, email, customer code, agency code, purchase order number, credit card number/exp. date and amount remitted/PO amount. Customers have the option of placing orders by mail, fax, telephone, and walk-in. Furnishing this information requires the customer to research and prepare their request before submitting it to APFO. Information collected is used to process fiscal obligations, communicate with the customer, process the request, and ship the requested products.

Description of Respondents: Farms; Individuals or household; Business or other for-profit; Federal Government; State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents: 12,120.

Frequency of Responses: Recordkeeping; Reporting; Annually; Other (when ordering).

Total Burden Hours: 3,770.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–23594 Filed 9–24–12; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, the United States Department of Agriculture (USDA) announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet October 23–25, 2012. The public may file written comments before or up to two weeks after the meeting with the contact person.

ADDRESSES: The meeting will take place at the Phoenix Park Hotel, 520 North Capitol Street NW., Washington, DC 20001. Written comments from the public may be sent to the Contact Person identified in this notice at: The National Agricultural Research, Extension, Education, and Economics Advisory Board Office, Room 3901 South Building, United States Department of Agriculture, STOP 0321, 1400 Independence Avenue SW., Washington, DC 20250–0321.

FOR FURTHER INFORMATION CONTACT: J. Robert Burk, Executive Director or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720–3684; fax: (202) 720–6199; or email: *Robert.Burk@usda.gov* or *Shirley.Morgan@ars.usda.gov.*

SUPPLEMENTARY INFORMATION: The Honorable Secretary of Agriculture Tom Vilsack, and the Under Secretary of Research, Education, and Economics Dr. Catherine Woteki have been invited to provide brief remarks and welcome the new Board members during the meeting.

On Tuesday, October 23, 2012, an orientation session for new members and interested incumbent members will be held from 1 p.m.–5:30 p.m. Specific topics of discussion will include a

briefing on ethical behavior for federal advisory committee members, an introduction to the agencies of the USDA's Research, Education, and Economics Mission Area, and information on the core functions of those agencies and the impact of the current budget status on their operations.

On Wednesday, October 24, 2012 the full Advisory Board will convene at 8:00 a.m. followed shortly thereafter with the appointment of a new Chair of the Advisory Board. The meeting will also include: brief introductions of new Board members, incumbents, and guests; the election of the Vice-Chair of the Advisory Board; comments from a variety of distinguished leaders, experts, and departmental personnel; and items of board business. Specific items on the agenda will include a discussion related to the international programs related to the Research, Education, and Economics Mission Area, and a discussion on the role of the Board in advising the Secretary of Agriculture, and Congress. The afternoon session will end by 5 p.m. An evening session will convene at 6 p.m. and include a vote for the fiscal year 2013 executive committee members of the Board. The meeting will adjourn for the day by 8 p.m.

On Thursday October 25, 2012, the Board will reconvene at 8 a.m. to: discuss initial recommendations resulting from the meeting and future planning for the Board; to organize the membership of the committees, and working groups of the Advisory Board; and to finalize Board business for the meeting. The Board Meeting will adjourn by 12 p.m. (noon).

This meeting is open to the public and any interested individuals wishing to attend.

Opportunity for public comment will be offered each day of the meeting. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Thursday, November 8, 2012). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Education, and Economics Advisory Board Office.

Done at Washington, DC, this 17th day of September 2012.

Catherine Woteki,

Under Secretary, Research, Education, and Economics.

[FR Doc. 2012–23610 Filed 9–24–12; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Boundary Establishment for the Au Sable, Bear Creek, Manistee, and the Pine Wild and Scenic Rivers, Huron-Manistee National Forests; Alcona, Oscoda, Manistee, Lake, and Wexford Counties, MI

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 3(b) of the Wild and Scenic Rivers Act, the USDA Forest Service, Washington Office, is transmitting the final boundary of the Au Sable, Bear Creek, Manistee, and the Pine Wild and Scenic Rivers to Congress.

FOR FURTHER INFORMATION CONTACT: Information may be obtained by contacting Kristen Thrall, Recreation Program Manager, Huron-Manistee National Forests, 1755 South Mitchell, Cadillac, MI 49601, (231) 775–5023, ext. 8756.

SUPPLEMENTARY INFORMATION: The Au Sable, Bear Creek, Manistee, and the Pine Wild and Scenic Rivers boundaries are available for review at the following offices: USDA Forest Service, Office of the Chief, 1400 Independence Avenue SW., Washington DC 20024; USDA Forest Service, Easter Region, Suite 400, 626 East Wisconsin Avenue, Milwaukee, WI 533202 and; Huron-Manistee National Forests, 1755 South Mitchell, Cadillac, MI 49601. Detailed legal descriptions are available upon request.

The Michigan Scenic Rivers Act of 1992 (Pub. L. 102–249–March 3, 1992) designated Bear Creek, Manistee River, and Pine River, Michigan, as National Wild and Scenic Rivers, to be administered by the Secretary of Agriculture. The 1984 Amendment to the Wild and Scenic Rivers Act (Pub. L. 98–444–October 4, 1984) designated the Au Sable River, Michigan, as a National Wild and Scenic River, to be administered by the Secretary of Agriculture. As specified by law, the boundaries will not be effective until ninety days after Congress receives the transmittal.

Dated: September 18, 2012.

Barry Paulson,

Forest Supervisor.

[FR Doc. 2012–23559 Filed 9–24–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Direct Investment Surveys: BE–15, Annual Survey of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies 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 must be submitted on or before November 26, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230, or via email at *jjessup@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to David H. Galler, Chief, Direct Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9835; fax: (202) 606–5318; or via email at *david.galler@bea.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Annual Survey of Foreign Direct Investment in the United States (Form BE–15) obtains sample data on the financial structure and operations of U.S. affiliates of foreign investors. The data are needed to provide reliable, useful, and timely measures of foreign direct investment in the United States, assess its impact on the U.S. economy, and based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States. The data are used to derive annual estimates of the operations of U.S. affiliates of foreign investors, including their balance sheets; income statements; property, plant, and equipment; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development activity. In

addition, data covering employment are collected by state. The data are also used to update similar data for the universe of U.S. affiliates collected once every five years on the BE–12 benchmark survey.

The survey, as proposed, incorporates changes that were made to the 2012 BE–12, Benchmark Survey of Foreign Direct Investment in the United States. The exemption level for reporting on the proposed survey is unchanged from the previous (2011) survey.

II. Method of Collection

The BE–15 annual survey is sent to potential respondents in March of each year. A completed report covering a reporting company's fiscal year ending during the previous calendar year is due by May 31 (or by June 30 for respondents that file using BEA's eFile system). Reports must be filed by every U.S. business enterprise that is owned 10 percent or more by a foreign investor and that has total assets, sales or gross operating revenues, or net income (or loss) of over $40 million.

As an alternative to filing paper forms, BEA offers its electronic filing option, the eFile system, for use in reporting on Form BE–15. For more information about eFile, go to www.bea.gov/efile.

Potential respondents are those U.S. business enterprises that reported in the 2012 benchmark survey of foreign direct investment in the United States, along with businesses that subsequently entered the direct investment universe. The BE–15 is a sample survey, as described; universe estimates are developed from the reported sample data.

III. Data

OMB Control Number: 0608–0034.

Form Number: BE–15.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 4,000 annually.

Estimated Time per Response: 19 hours, 30 minutes is the average, but may vary considerably among respondents because of differences in company size and complexity.

Estimated Total Annual Burden Hours: 77,825.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended by Pub. L. 98–573 and Pub. L. 101–533).

IV. Request for 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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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: September 19, 2012.

Glenna Mickelson,

Management Analyst, Office of Chief Information Officer.

[FR Doc. 2012–23532 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing an Open Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, October 10, 2012, from 8 a.m. until 5 p.m. Eastern Time, Thursday, October 11, 2012, from 8 a.m. until 5 p.m. Eastern Time, and Friday, October 12, 2012, from 8 a.m. until 12 p.m. Eastern Time. All sessions will be open to the public.

DATES: The meeting will be held on Wednesday, October 10, 2012, from 8 a.m. until 5 p.m. Eastern Time, Thursday, October 11, 2012, from 8 a.m. until 5 p.m. Eastern Time, and Friday, October 12, 2012, from 8 a.m. until 12 p.m. Eastern Time.

ADDRESSES: The meeting will take place at the Courtyard Washington Embassy Row, General Scott Room, 1600 Rhode Island Avenue NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Annie Sokol, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, telephone: (301) 975–2006, or by email at: *annie.sokol@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, October 10, 2012, from 8 a.m. until 5 p.m. Eastern Time, Thursday, October 11, 2012, from 8 a.m. until 5 p.m. Eastern Time, and Friday, October 12, 2012, from 8 a.m. until 12 p.m. Eastern Time. All sessions will be open to the public. The ISPAB is authorized by 15 U.S.C. 278g–4, as amended, and advises the Secretary of Commerce, the Director of the Office of Management and Budget, and the Director of NIST on security and privacy issues pertaining to federal computer systems. Details regarding the ISPAB's activities are available at *http://csrc.nist.gov/groups/SMA/ispab/index.html.*

The agenda is expected to include the following items:

—Presentation relating to SP 800–53 Revision 4,
—Panel discussion with members of the Office of Inspector General relating to NIST guidelines to advance security,
—Panel discussion on the latest development of FedRAMP,
—Panel discussion/updates on privacy and security risks for medical devices and the Government Accountability Office (GAO),
—Presentation on healthcare information technology security,
—Cybersecurity Updates from Director of Cybersecurity, White House,
—Presentation on Security, Privacy and Information Sharing,
—Discussion/presentation on information sharing, cyber and communications across federal agencies with the National Cybersecurity and Communications Integration Center (NCCIC, DHS) Director,
—Presentation/Discussion on Radios used by federal civilian agencies, and
—Update of NIST Computer Security Division.

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters. The final agenda will be posted on the Web site indicated above. Seating will be available for the public and media. No registration is required to attend this meeting.

Public Participation: The ISPAB agenda will include a period of time, not to exceed thirty minutes, for oral

comments from the public (Friday, October 12, 2012, between 10 a.m. and 10:30 a.m.). Speakers will be selected on a first-come, first-served basis. Each speaker will be limited to five minutes. Questions from the public will not be considered during this period. Members of the public who are interested in speaking are requested to contact Annie Sokol at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAB at any time. All written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930.

Dated: September 19, 2012.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2012–23608 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC180

Fisheries of the South Atlantic and Gulf of Mexico; South Atlantic Fishery Management Council (SAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The SAFMC will hold a meeting of its Scientific and Statistical Committee (SSC) to review and discuss the following items: Fishery Management Plan (FMP) amendments under development; stock assessment benchmarks and updates; and planning for 2013 stock assessments. The meeting will be held in North Charleston, SC.

DATES: The meeting will be held October 23–25, 2012. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Crowne Plaza, 4831 Tanger Outlet Boulevard, North Charleston SC 29418; telephone: (843) 744–4422.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; email: *Kim.Iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: Under the Reauthorized Magnuson-Stevens Fishery Conservation and Management Act, the SSC is the body responsible for reviewing the Council's scientific materials. The SSC will: Discuss FMP amendments under development; review assessments and provide fishing level recommendations for red porgy, vermilion snapper, and yellowtail snapper; review Terms of Reference (TOR) for benchmark stock assessments of blueline tilefish and gray triggerfish; review the Southeast Data, Assessment and Review (SEDAR) schedule for 2013; review the prior black sea bass assessment update and recommend a probability of stock rebuild; discuss allowable biological catch (ABC) control rule approaches and risk; and review shrimp stock assessment approaches.

SSC Meeting Schedule

October 23, 2012, 8:30 a.m.–6 p.m.

October 24, 2012, 8:30 a.m.–6 p.m.

October 25, 2012, 8:30 a.m.–3 p.m.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed 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 the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 3 business days prior to the meeting.

Dated: September 20, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23546 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC181

Fisheries of the South Atlantic and Gulf of Mexico; South Atlantic Fishery Management Council (SAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The SAFMC will hold a meeting of its Social and Economic Sciences Sub-Panel (SEP) to review and discuss the following items: Fishery Management Plan (FMP) amendments under development and allocation approaches. The meeting will be held in North Charleston, SC.

DATES: The meeting will be held October 22, 2012, from 1 p.m. to 6 p.m.

ADDRESSES: The meeting will be held at the Crowne Plaza, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418; telephone: (843) 744–4422.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; email: *Kim.Iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The SAFMC SEP is a sub-panel that addresses social and economic science and reports to the Scientific and Statistical Committee (SSC). Under the Reauthorized Magnuson-Stevens Fishery Conservation and Management Act, the SSC is the body responsible for reviewing the Council's scientific materials. The SEP will discuss amendments under development and allocation approaches. The SEP will provide a report to the SSC for consideration.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed 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 the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least three (3) business days prior to the meeting.

Dated: September 20, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23547 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC256

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Groundfish Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, October 11, 2012, at 9 a.m.

ADDRESSES: The meeting will be held at the Ashworth by the Sea Hotel, 295 Ocean Boulevard, Hampton, NH 03842; telephone: (603) 926–6762; fax: (603) 926–2002. (508) 926–2002.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

The Groundfish Oversight Committee will continue development of Framework Adjustment 48 to the Northeast Multispecies Fishery Management Plan. The Committee will receive reports from the Groundfish Advisory Panel and the Recreational Advisory Panel, and will consider the recommendations of those panels. The Committee will discuss possible adjustments to sector management measures and issues related to setting Acceptable Biological Catches (ABCs), Annual Catch Limits (ACLs), and Accountability Measures (AMs). The Committee will continue to develop options to improve sector monitoring, including both at-sea and dockside monitoring. They may discuss different funding mechanisms, appropriate coverage levels, full retention of allocated groundfish species, and ACE carry-over provisions. With respect to ABCs/ACLs/AMs, the Committee will consider additional sub-ACLs for the scallop fishery for stocks such as SNE/MAB windowpane flounder. Issues related to the scallop fishery that may be discussed include the allocations of yellowtail flounder to that fishery, and changing the time that access is allowed into the Georges Bank access areas. The Committee may also develop options for additional sub-ACLs for fisheries outside the Council's jurisdiction that catch these stocks. Examples of fisheries that may be affected include the fluke and scup fisheries that are managed by the Mid-Atlantic Fishery Management Council (MAFMC) and the Atlantic States Marine Fisheries Commission (ASMFC), and the squid fisheries that are managed by the MAFMC. The Committee may decide to apply accountability measures by gear for this stock, rather than by FMP. Committee members may also discuss additional reactive AMs for wolffish, SNE/MA winter flounder, and Atlantic halibut. The Committee may also discuss other issues that may be incorporated into the framework, such as issues related to Georges Bank yellowtail flounder management. The Committee will discuss recreational management measures for FY 2013 and beyond. Options identified by the Committee will be included in a future management action (Framework Adjustment 48) that will be considered by the Council in the fall of 2012. Other business may be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action 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 the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: September 20, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23549 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC249

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a joint meeting of its Deepwater Shrimp Advisory Panel (AP) and Coral Advisory Panel in Cape Canaveral, FL.

DATES: Members of the Deepwater Shrimp AP and Coral AP will meet jointly from 8:30 a.m. until 5 p.m. on October 18, 2012.

ADDRESSES: The meeting will be held at the Radisson Resort at the Port, 8701 Astronaut Blvd., Cape Canaveral, FL; telephone: (800) 967–9033; fax: (321) 784–3737.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; telephone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: Issues to be addressed at the meeting include: An overview of the rock shrimp fishery and of deepwater coral resources; options for expanding Coral Habitat Areas of Particular Concern (HAPCs); and transit provisions through the Oculina Bank HAPC. The joint APs will provide recommendation to the Council.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of 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 Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: September 20, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23550 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC250

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Joint Advisory Panel and Plan Development Team, in October 2012, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, October 10, 2012 at 9:30 a.m.

ADDRESSES: This meeting will be held at the Ashworth by the Sea, 295 Ocean Boulevard, Hampton, NH 03842; telephone: (603) 926–6762; fax: (603) 926–2002.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Habitat Advisory Panel and Plan Development Team will review and further develop alternatives for Omnibus Essential Fish Habitat Amendment 2. Related to gear modification options for Habitat Management Areas, they will discuss ground cable modification options in general and make a recommendation as to whether they should be developed further; discuss analytical considerations, including necessary assumptions and uncertainty; review the range of habitat management areas where gear modification management options are being considered by the Habitat Committee; and recommend a maximum ground cable length for each location. They will also discuss dedicated Habitat Research Areas, reviewing and refining updated proposals for specific areas and recommend them to the Habitat Committee, as appropriate. Other business may be discussed at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: September 20, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012–23548 Filed 9–24–12; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 12–1]

Notice of Telephonic Prehearing Conference

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: Notice of telephonic prehearing conference in the matter of Maxfield and Oberton Holdings, LLC, Docket No. 12–1.

DATES: September 25, 2012, at 10 a.m. (CDT).

ADDRESSES: See **SUPPLEMENTARY INFORMATION**: Telephonic conferencing arrangements.

FOR FURTHER INFORMATION CONTACT: Katy J.L. Duke, Esq., U.S. Coast Guard ALJ Program, 504/671–2213.

SUPPLEMENTARY INFORMATION: Any or all of the following shall be considered during the prehearing conference:

(1) Petitions for leave to intervene;

(2) Motions, including motions for consolidation of proceedings and for certification of class actions;

(3) Identification, simplification and clarification of the issues;

(4) Necessity or desirability of amending the pleadings;

(5) Stipulations and admissions of fact and of the content and authenticity of documents;

(6) Oppositions to notices of depositions;

(7) Motions for protective orders to limit or modify discovery;

(8) Issuance of subpoenas to compel the appearance of witnesses and the production of documents;

(9) Limitation of the number of witnesses, particularly to avoid duplicate expert witnesses;

(10) Matters of which official notice should be taken and matters which may be resolved by reliance upon the laws administered by the Commission or upon the Commission's substantive standards, regulations, and consumer product safety rules;

(11) Disclosure of the names of witnesses and of documents or other physical exhibits which are intended to be introduced into evidence;

(12) Consideration of offers of settlement;

(13) Establishment of a schedule for the exchange of final witness lists, prepared testimony and documents, and for the date, time and place of the hearing, with due regard to the convenience of the parties; and

(14) Such other matters as may aid in the efficient presentation or disposition of the proceedings. Telephonic conferencing arrangements will be made by the court. Mary B. Murphy, Esq., Jennifer Argabright, Esq., Sarah Wang, Esq., Counsel for the U.S. Consumer Product Safety Commission, shall be contacted by a third party conferencing center at 301/504–7809. Eric C. Tew, Esq. and Paul M. Laurenza, Esq., counsel for Respondent Maxfield and Oberton Holdings, LLC (Respondent) shall be contacted by a third party conferencing center at 202/906–8646.

Authority: Consumer Product Safety Act (Sec. 15, 20, 27 (15 U.S.C. 2064, 2069, 2076), the Flammable Fabrics Act (Sec. 5, 15 U.S.C. 1194), the Federal Trade Commission Act (15 U.S.C. 45).

Dated: September 20, 2012.

Todd A. Stevenson,

Secretary.

[FR Doc. 2012–23565 Filed 9–24–12; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Purchasing Instructions (BPI) and Bonneville Financial Assistance Instructions (BFAI)

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of document availability.

SUMMARY: Copies of the Bonneville Purchasing Instructions (BPI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of its purchases of goods and services, including construction, are available in printed form or at the following Internet address: *http://www.bpa.gov/corporate/business/bpi.* Copies of the Bonneville Financial Assistance Instructions (BFAI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements), are available in printed form or available at the following Internet address: *http://www.bpa.gov/corporate/business/bfai.*

ADDRESSES: Unbound copies of the BPI or BFAI may be obtained by sending a request to the Head of the Contracting Activity, Routing DGP–7, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621.

FOR FURTHER INFORMATION CONTACT: Head of Contracting Activity (503) 230–5498.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues rather than annual appropriations. BPA's purchasing operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes. Pursuant to these special authorities, the BPI is promulgated as a statement of purchasing policy and as a body of interpretative regulations governing the conduct of BPA purchasing activities. It is significantly different from the Federal Acquisition Regulation, and reflects BPA's private sector approach to purchasing the goods and services that it requires. BPA's financial assistance operations are conducted under 16 U.S.C. 839 *et seq.* and 16 U.S.C. 839 *et seq.* The BFAI express BPA's financial assistance policy. The BFAI also comprise BPA's rules governing implementation of the principles provided in the following Federal Regulations and/or OMB circulars:

2 CFR Part 220 Cost Principles for Educational Institutions (CircularA–21);

2 CFR Part 225 Cost Principles for State, Local and Indian Tribal Governments (Circular A–87); Grants and Cooperative Agreements with State and Local Governments (Circular A–102);

Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (Circular A–110);

2 CFR Part 230 Cost Principles for Non-Profit Organizations (Circular A–122); and Audits of States, Local Governments and Non-Profit Organizations (Circular A–133) BPA's solicitations and contracts include notice of applicability and availability of the BPI and the BFAI, as appropriate, for the information for offerors on particular purchases or financial assistance transactions.

Issued in Portland, Oregon, on September 17, 2012.

Damian J. Kelly,

Manager, Purchasing/Property Governance.

[FR Doc. 2012–23562 Filed 9–24–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–1041–000.

Applicants: Hess Corporation, Delta Energy, LLC, DE of Ohio, LLC.

Description: Joint Petition of Delta Energy, LLC, DE of Ohio, LLC and Hess Corporation for Temporary Waiver of Capacity Release Regulations and Policies, and Request for Expedited Consideration.

Filed Date: 9/17/12.

Accession Number: 20120917–5165.

Comments Due: 5 p.m. ET 9/25/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP10–1410–005.

Applicants: Kern River Gas Transmission Company.

Description: 2012 Reservation Charge September Compliance to be effective 12/1/2010.

Filed Date: 9/17/12.

Accession Number: 20120917–5138.

Comments Due: 5 p.m. ET 10/1/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 18, 2012.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2012–23525 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2061–000.

Applicants: Tampa Electric Company.

Description: Compliance Refund Report to be effective N/A.

Filed Date: 9/17/12.

Accession Number: 20120917–5066.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER10–3168–003; ER10–3125–005; ER10–3102–005; ER10–3109–005; ER10–3107–005; ER10–3100–005.

Applicants: ArcLight Energy Marketing, LLC, Washington County Power, LLC, Walton County Power,

LLC, Effingham County Power, LLC, AL Sandersville, LLC, MPC Generating, LLC.

Description: Notice of Non-Material Change in Status of ArcLight Energy Marketing, LLC, *et al.*

Filed Date: 9/17/12.

Accession Number: 20120917–5140.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER11–4683–002; *ER11–4684–002; ER11–2489–002; ER11–3620–003; ER11–2882–004; ER10–2432–003; ER10–2435–003; ER10–2440–003; ER10–2442–003; ER10–2444–003; ER10–2446–003; ER10–2449–003; ER12–1431–001; ER12–1434–001; ER12–1432–001; ER12–1435–001; ER10–3139–003.*

Applicants: Elizabethtown Energy, LLC, Lumberton Energy, LLC, Hatchet Ridge Wind, LLC, Lyonsdale Biomass, LLC, ReEnergy Sterling CT Limited Partnership, Bayonne Plant Holding, L.L.C., Camden Plant Holding, L.L.C., Dartmouth Power Associates Limited Partnership, L.P., Newark Bay Cogeneration Partnership, L.P., Pedricktown Cogeneration Company LP, York Generation Company LLC, ReEnergy Ashland LLC, ReEnergy Fort Fairfield LLC, ReEnergy Livermore Falls LLC, Elmwood Park Power, LLC, ReEnergy Stratton Energy LLC, Black River Generation, LLC.

Description: Notice of Change in Status of the Riverstone MBR Entities.

Filed Date: 9/17/12.

Accession Number: 20120917–5163.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2391–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM's Response to Deficiency Letter dated 9/12/2012 to be effective N/A.

Filed Date: 9/17/12.

Accession Number: 20120917–5139.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2391–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM's Response to Deficiency Letter dated 9/12/2012 to be effective 10/1/2012.

Filed Date: 9/18/12.

Accession Number: 20120918–5000.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2639–000.

Applicants: Ocotillo Express LLC.

Description: Application for Market-Based Rate Authority to be effective 11/16/2012.

Filed Date: 9/17/12.

Accession Number: 20120917–5098.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2640–000.

Applicants: Electric Energy, Inc.

Description: Rate Schedule to be effective 1/1/2013.

Filed Date: 9/17/12.

Accession Number: 20120917–5106.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2641–000.

Applicants: Goshen Phase II LLC.

Description: Amended and Restated SFA to be effective 9/7/2012.

Filed Date: 9/17/12.

Accession Number: 20120917–5128.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2642–000.

Applicants: North Eastern States, Inc.

Description: Baseline Filing to be effective 9/17/2012.

Filed Date: 9/17/12.

Accession Number: 20120917–5129.

Comments Due: 5 p.m. ET 10/9/12.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH12–22–000.

Applicants: Continental Energy Systems LLC, LGB CAP ROCK LLC.

Description: FERC–65A Exemptions Notice of Material Change in Facts of Continental Energy Systems LLC.

Filed Date: 9/17/12.

Accession Number: 20120917–5144.

Comments Due: 5 p.m. ET 10/9/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 18, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23582 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2310–001.

Applicants: Zephyr Wind, LLC.

Description: Amendment to Pending 1 to be effective 9/25/2012.

Filed Date: 9/14/12.

Accession Number: 20120914–5125.

Comments Due: 5 p.m. ET 10/5/12.

Docket Numbers: ER12–2629–000.

Applicants: Northern States Power Company, a Wisconsin corporation.

Description: 2012–9–14 DPC Const Agrmt NOC_290–NSPW to be effective 11/14/2012.

Filed Date: 9/14/12.

Accession Number: 20120914–5123.

Comments Due: 5 p.m. ET 10/5/12.

Docket Numbers: ER12–2630–000.

Applicants: Noble Americas Energy Solutions LLC.

Description: Errata to MBR tariff re Seller Category to be effective 11/1/2010.

Filed Date: 9/14/12.

Accession Number: 20120914–5129.

Comments Due: 5 p.m. ET 10/5/12.

Docket Numbers: ER12–2631–000.

Applicants: Pacific Wind Lessee, LLC, Catalina Solar, LLC.

Description: Shared Transmission Facilities Agreement of Pacific Wind Lessee LLC & Catalina Solar LLC to be effective 11/15/2012.

Filed Date: 9/14/12.

Accession Number: 20120914–5130.

Comments Due: 5 p.m. ET 10/5/12.

Docket Numbers: ER12–2632–000.

Applicants: Pacific Gas and Electric Company.

Description: E&P Agreement for SKIC Solar, LLC to be effective 9/17/2012.

Filed Date: 9/14/12.

Accession Number: 20120914–5131.

Comments Due: 5 p.m. ET 10/5/12.

Docket Numbers: ER12–2633–000.

Applicants: Catalina Solar, LLC.

Description: Catalina Solar Concurrence to Shared Transmission Facilities Agreement to be effective 11/15/2012.

Filed Date: 9/14/12.

Accession Number: 20120914–5133.

Comments Due: 5 p.m. ET 10/5/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23526 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2719–009; ER10–2718–009; ER10–2578–011; ER10–2633–009; ER10–2570–009; ER10–2717–009; ER10–3140–008.

Applicants: Cogen Technologies Linden Venture, L.P., East Coast Power Linden Holding, L.L.C., Fox Energy Company LLC, Birchwood Power Partners, L.P., Shady Hills Power Company, L.L.C.,EFS Parlin Holdings, L.L.C., Inland Empire Energy Center, LLC.

Description: Notice of Non-Material Change in Status of East Coast Power Linden Holding, L.L.C., et al.

Filed Date: 9/17/12.

Accession Number: 20120917–5053.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2123–001.

Applicants: Midwest Independent Transmission System Operator, Inc., ITC Midwest LLC.

Description: SA 2452 ITCM–NMEPC–AEC–IPL Compliance to be effective 8/30/2012.

Filed Date: 9/17/12.

Accession Number: 20120917–5023.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2634–000.

Applicants: California Independent System Operator Corporation.

Description: 2012–09–17 CAISO Regulatory Must-Take Generation Amendment Filing to be effective 12/12/2012.

Filed Date: 9/17/12.

Accession Number: 20120917–5001.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2635–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: SA 2426 MDU-Thunder Spirit Wind G752 to be effective 9/18/2012.

Filed Date: 9/17/12.

Accession Number: 20120917–5031.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2636–000.

Applicants: Imperial Valley Solar 1, LLC.

Description: Imperial Valley Solar 1, LLC submits tariff filing per 35.12: LGIA Co-Tenancy Agreement to be effective 11/16/2012.

Filed Date: 9/17/12.

Accession Number: 20120917–5062.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2637–000.

Applicants: Commonwealth Edison Company.

Description: Commonwealth Edison Company Notice of Cancellation of Original Service Agreement No. C1052.

Filed Date: 9/17/12.

Accession Number: 20120917–5065.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2638–000.

Applicants: Commonwealth Edison Company.

Description: Commonwealth Edison Company, Notice of Cancellation of Original Service Agreement No. C1050.

Filed Date: 9/17/12.

Accession Number: 20120917–5076.

Comments Due: 5 p.m. ET 10/9/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: September 17, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23527 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–141–000.

Applicants: CPV Cimarron Renewable Energy Company, LLC, Cimarron Wind Energy Holdings II, LLC, Cimarron Wind Energy Holdings, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of CPV Cimarron Renewable Energy Company, LLC, *et al.*

Filed Date: 9/18/12.

Accession Number: 20120918–5093.

Comments Due: 5 p.m. ET 10/9/12.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12–112–000.

Applicants: Ocotillo Express LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Ocotillo Express LLC.

Filed Date: 9/18/12.

Accession Number: 20120918–5049.

Comments Due: 5 p.m. ET 10/9/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2643–000.

Applicants: California Independent System Operator Corporation.

Description: 2012–09–18 Resource Adequacy Deliverability for Distributed Generation Amendment to be effective 11/18/2012.

Filed Date: 9/18/12.

Accession Number: 20120918–5002.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2644–000.

Applicants: Avista Corporation.

Description: Avista Corp FERC Rate Schedule No. 184 to be effective 10/1/2012.

Filed Date: 9/18/12.

Accession Number: 20120918–5051.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2645–000.

Applicants: Pastoria Energy Facility L.L.C.

Description: Notice of Succession to be effective 9/19/2012.

Filed Date: 9/18/12.

Accession Number: 20120918–5057.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2646–000.

Applicants: Arizona Public Service Company.

Description: Perrin Ranch LGIA—Compliance Filing to be effective 10/21/2011.

Filed Date: 9/18/12.

Accession Number: 20120918–5059.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: ER12–2647–000.

Applicants: Wolverine Power Supply Cooperative, Inc.

Description: Normal Filing sections 11–14 to be effective 9/18/2012.
Filed Date: 9/18/12.
Accession Number: 20120918–5069.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: ER12–2648–000.
Applicants: Southwest Power Pool, Inc.
Description: 2041R1 Substitute Kansas City Board of Public Utilities PTP to be effective 12/1/2011.
Filed Date: 9/18/12.
Accession Number: 20120918–5095.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: ER12–2649–000.
Applicants: Groton Wind, LLC.
Description: 20120918_baseline to be effective 10/26/2012.
Filed Date: 9/18/12.
Accession Number: 20120918–5109.
Comments Due: 5 p.m. ET 10/9/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 18, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23583 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2642–000]

North Eastern States, 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 North Eastern States, 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 October 9, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(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: September 19, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23580 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2649–000]

Groton 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 Groton 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 October 9, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(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: September 19, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23581 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2639–000]

Ocotillo Express 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 Ocotillo Express 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 October 9, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(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: September 19, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–23579 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13345–001]

Shearwater Design, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 3, 2012, Shearwater Design, Inc. filed an application for a successive preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Homeowner Tidal Power Electric Generation Project to be located in the Kennebec River, in the Town of Phippsburg, Sagadahoc County, Maine. 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: (1) 10 hydrokinetic turbine units with an estimated total capacity of 100 kilowatts; (2) approximately five 200 to 500-foot-long, 220-volt transmission lines connected to individual homes; and (3) appurtenant facilities. The estimated annual generation of the proposed project would be 150,000 kilowatt-hours.

Applicant Contact: Dot Kelly, Shearwater Design, Inc., 83 Captain Perry Drive, Phippsburg, ME 04562; phone: (207) 443–4787.

FERC Contact: Brandon Cherry; phone: (202) 502–8328.

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–13345) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: September 18, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–23508 Filed 9–24–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9734–1]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Cheyenne Light, Fuel & Power, Wygen II Power Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This document announces that the EPA Administrator has responded to a citizen petition asking EPA to object to an operating permit issued by the Wyoming Department of Environmental Quality (WDEQ). Specifically, the Administrator has

denied the August 4, 2011, Petition (Petition), submitted under title V of the Clean Air Act (Act) by WildEarth Guardians (Petitioner), to object to WDEQ's June 7, 2011 Permit (Permit) issued to Cheyenne Light, Fuel & Power (CLF&P) for their Wygen II power plant (Wygen II).

Pursuant to sections 307(b) and 505(b)(2) of the Act, a petition for judicial review of those portions of the Order that deny issues in the Petition may be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date this notice appears in the **Federal Register**.

ADDRESSES: You may review copies of the final Order, the Petition, and other supporting information at the EPA Region 8 Office, 1595 Wynkoop Street, Denver, Colorado, 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the copies of the final Order, the Petition, and other supporting information. You may view the hard copies Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours in advance. Additionally, the final Order for CLF&P Wygen II is available electronically at: *http://www.epa.gov/region07/air/title5/petitiondb/petitions/wygen2_response2011.pdf.*

FOR FURTHER INFORMATION CONTACT: Donald Law, Air Program (8P–AR), EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, 80202–1129. Phone: (303) 312–7015. Email: *law.donald@epa.gov.*

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review and object to, as appropriate, a title V operating permit proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator, within 60 days after the expiration of this review period, to object to a title V operating permit if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period. EPA received a petition from WildEarth Petitioner dated August 4, 2011, requesting that EPA object to the issuance of the Permit to CLF&P for the Wygen II power plant located in Campbell County, Wyoming. The Petition alleges that WDEQ failed to respond to comments on the draft permit.

On August 23, 2012, the Administrator issued an Order denying the Petition. The Order explains the reasons behind EPA's conclusions.

Dated: September 11, 2012.

James B. Martin,

Regional Administrator, Region 8.

[FR Doc. 2012–23590 Filed 9–24–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9720–7]

Proposed CERCLA Administrative Cost Recovery Settlement for the Buckbee-Mears Co. Superfund Site in Cortland, NY, Cortland County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122 (h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Buckbee-Mears Co. Superfund Site located in Cortland, Cortland County, New York, (the ''Site'') with the State Bank of India, New York Branch (the ''Bank''). Pursuant to the settlement EPA will receive: (1) All funds in an escrow account with accrued interest (approximately $116,500); (2) Twenty-five percent of any funds the Bank collects from the principals of International Electron Devices (USA), LLC, the current owner and past operator of the Site at the time of disposal; and (3) A share of the proceeds from the sale of two parcels of land within the Site (''Properties'') following the Bank's foreclosure sale and distribution of certain amounts to the City of Cortland (''City'') and Cortland County (''County'') in settlement of their respective tax liens. The sales proceeds shall be distributed as follows: (a) The Bank will pay to the City the greater of $302,881 or 15% after the Bank is paid $150,000 attributable to the costs of marketing and selling the Properties; (b) The Bank will pay to the County $2,120; and (c) Any proceeds from the foreclosure sale remaining after the above payments will be distributed in proportion to the following lien amounts: (1) For EPA, $8,323.204; (2) for the Bank, $8,434,911; (3) for the City, $1,199,043 minus the greater of $302,881 or fifteen percent (15%) of the proceeds from the sale of the Properties. The settlement also includes a covenant not to sue the settling party pursuant to Sections 106 and 107(a) of CERCLA, for Existing Contamination, as defined in the settlement, at the Site. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

DATES: Comments must be provided within thirty days of the publication of this notice.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway, 17th Floor, New York, New York 10007–1866 and should refer to the Buckbee-Mears Co. Superfund Site located in Cortland, New York, Cortland County, EPA Region II Docket No. CERCLA–02–2012–2017.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway, 17th Floor, New York, New York 10007–1866, Attention: Marla E. Wieder, Assistant Regional Counsel at (212) 637–3184.

SUPPLEMENTARY INFORMATION: A copy of the proposed settlement may be obtained from Marla Wieder, Assistant Regional Counsel at the address above, or via email at *wieder.marla@epa.gov.*

Dated: July 20, 2012.

John LaPadula,

Deputy Director, Emergency & Remedial Response Division.

[FR Doc. 2012–23587 Filed 9–24–12; 8:45 am]

BILLING CODE 6560–50–P

EXPORT–IMPORT BANK

[Public Notice 2012–0505]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: EIB 11–05 Exporter's Certificate for Loan Guarantee & MT Insurance Programs

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden,

invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

Ex-Im Bank's borrowers, financial institution policy holders and guaranteed lenders provide this form to U.S. exporters, who certify to the eligibility of their exports for Ex-Im Bank support. For direct loans and loan guarantees, the completed form is required to be submitted at time of disbursement and held by either the guaranteed lender or Ex-Im Bank. For MT insurance, the completed forms are held by the financial institution, only to be submitted to Ex-Im Bank in the event of a claim filing. Ex-Im Bank believes that EIB 11–05 requires emergency approval in order to continue operation of its long- and medium-term financing programs. It is an integral component of the programs and is heavily used.

Lack of an emergency approval of this form would preclude our ability to continue operation of its long- and medium-term financial institution programs. Ex-Im Bank developed the referenced form to obtain exporter certifications regarding the export transaction, content sourcing, and their eligibility to participate in USG programs. These details are necessary to determine the value and legitimacy of Ex-Im Bank financing support and claims submitted. It also provides the financial institutions a check on the export transaction's eligibility at the time it is fulfilling a financing request.

Accordingly, Ex-Im Bank requests emergency approval of EIB 11–05 in order to continue operation of these important export programs.

The form can be viewed at: *www.exim.gov/pub/pending/eib11-05.pdf.*

DATES: Comments should be received on or before October 25, 2012 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038 Attn: OMB 3048–XXXX.

SUPPLEMENTARY INFORMATION:

Titles and Form Number EIB 11–05 Exporter's Certificate for Direct Loan, Loan Guarantee & MT Insurance Programs

OMB Number: 3048–0043.

Type of Review: New.

Need and Use: The information collected will provide information needed to determine compliance and content for transaction requests submitted to the Export-Import Bank under its insurance, guarantee, and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 4,000.

Estimated Time per Respondent: 30 minutes.

Total Burden: 2,000 hours.

Government Reviews only forms when a claim is filed—in FY 2011 54 claims were filed utilizing this form.

Government Annual Burden Hours: 54.

Frequency of Reporting or Use: As needed.

Total Cost to the Government: $2,090.88.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2012–23561 Filed 9–24–12; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 26, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0692.

Type of Review: Extension of a currently approved collection.

Title: Sections 76.802 and 76.804, Home Wiring Provisions; Section 76.613, Interference from a Multi-channel Video Programming Distributor (MVPD).

Form Number: N/A.

Respondents: Individuals or households; Business or other for-profit entities.

Number of Respondents: 22,000.

Estimated Time per Response: 0.083—2 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Annual reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 1, 4, 224, 251, 303, 601, 623, 624 and 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 36,114 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: In the Cable Television Consumer Protection and Competition Act of 1992, Congress directed the FCC to adopt rules governing the disposition of home wiring owned by a cable operator when a subscriber terminates service. The rules at 76.800 et seq., implement that directive. The intention of the rules is to clarify the status and provide for the disposition of existing cable operator-owned wiring in single family homes

and multiple dwelling units upon the termination of a contract for cable service by the home owner or MDU owner. Section 76.613(d) requires that when Multichannel Video Programming Distributors (MVPDs) cause harmful signal interference MVPDs may be required by the District Director and/or Resident Agent to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–23535 Filed 9–24–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2012–N–13]

State-Level Guarantee Fee Pricing

AGENCY: Federal Housing Finance Agency.

ACTION: Notice; input accepted.

The Federal Housing Finance Agency (FHFA) oversees the operations of Fannie Mae and Freddie Mac (''the Enterprises''). The Enterprises are in conservatorships, and, as Conservator, FHFA has statutory obligations in its conduct of the conservatorships, including preserving and conserving assets. Though the Enterprises are congressionally chartered and federally supervised and regulated, state laws and practices can have a significant impact on their loan default costs.

This Notice sets forth an approach to adjust the guarantee fees (''g-fees'') that the Enterprises charge for mortgages that finance properties with one to four units (''single-family mortgages'') in certain states to recover a portion of the exceptionally high costs that the Enterprises incur in cases of mortgage default in those states.

Background

The Enterprises charge g-fees to compensate for the credit risks they undertake when they own or guarantee mortgages. The g-fees the Enterprises currently charge on single-family mortgages vary with the type of loan product and with loan and borrower attributes that affect credit risk. FHFA has a responsibility to ensure that those fees are proper and adequate. The single-family g-fees that the Enterprises charged prior to conservatorship proved inadequate to compensate for the level of actual credit losses they experienced. This contributed directly to substantial financial support being provided to the two companies by taxpayers.

G-fee payments to Fannie Mae and Freddie Mac generally include both ongoing monthly payments and an upfront payment at the time of Enterprise loan acquisition. Current Enterprise schedules for upfront g-fees may be found at *https://www.efanniemae.com/sf/refmaterials/llpa/pdf/llpamatrix.pdf* and *http://www.freddiemac.com/singlefamily/pdf/ex19.pdf.*

Recent experience has shown a wide variation among states in the costs that the Enterprises incur from mortgage defaults. This is due, in large part, to differences among the states and territories in the requirements for lenders or other investors to manage a default, foreclose, and obtain marketable title to the property backing a single-family mortgage. Foreclosure takes longer than average in some states as a result of regulatory or judicial actions. Further, in some states the investor cannot market a property for a period after foreclosure is complete. There is also variation among the states in the per-day carrying costs that investors incur during the periods when a defaulted loan is non-performing and, in some states, when a foreclosed property cannot be marketed. Those variations in time periods and per-day carrying costs interact to contribute to state-level differences in the average total carrying cost to investors of addressing a loan default. Because the Enterprises currently set their g-fees nationally, accounting for expected default costs only in the aggregate, borrowers in states with lower default-related carrying costs are effectively subsidizing borrowers in states with higher costs.

The principal drivers of differences across states in the average total carrying costs to the Enterprises of a defaulted single-family mortgage are, in order of importance—

1. The length of time needed to secure marketable title to the property;

2. Property taxes that must be paid until marketable title is secured; and

3. Legal and operational expenses during that period.

There is a wide variation among states in all three of those variables.

In light of these cost differentials, FHFA's March 2012 Conservatorship Scorecard set forth the objective for Fannie Mae and Freddie Mac of developing appropriate risk-based guarantee fee pricing by state. FHFA's proposal described here would adjust the upfront fees that the Enterprises charge when they acquire single-family mortgages in states where Enterprise costs that are related to state foreclosure practices are statistically higher than the national average. The size of the adjustments would reflect differences in costs in those states from the average.

FHFA recognizes that the data the Enterprises have used to calculate state-level cost differences in this proposal are based on a combination of Enterprise experience and estimation. Actual costs incurred by the Enterprises in the future may vary over time and among individual defaults within a state. Because of this variability, FHFA's planned approach focuses on five states that are clear outliers among states in terms of their default-related costs.

This document outlines the approach that FHFA is considering and discusses potential additions and changes to the calculation of such fees in the future. Through this Notice, FHFA is providing an opportunity for public input on these subjects. After reviewing the public input and determining a final state-level guarantee fee pricing method, FHFA expects to direct the Enterprises to implement the pricing adjustments in 2013.

Approach to State-Level G-Fee Adjustments

The approach set forth in this Notice is based on Enterprise experience and does not include the forward-looking impact of recently-enacted state and local laws that may increase the Enterprises' costs. FHFA intends to periodically reassess state-level pricing based on updated Enterprise data. The agency may include the impact of newly-enacted laws if they clearly affect foreclosure timelines or costs, where such costs may be reasonably estimated based on relevant experience.

FHFA's approach would focus on the small number of states that have average total carrying costs that significantly exceed the national average and, therefore, impose the greatest costs on Fannie Mae, Freddie Mac, and taxpayers. Mortgages originated in these highest-cost states would have an upfront fee of between 15 and 30 basis points, which would be charged to lenders as a one-time upfront payment on each loan acquired by the Enterprises after implementation. Based on current data as described below, those five states are Connecticut, Florida, Illinois, New Jersey, and New York.

Lenders may pass an upfront fee through to a borrower as an adjustment to the interest rate on the borrower's loan. Because the upfront fee is paid only once, its impact on the annual interest rate is much smaller than the

upfront fee itself. Dividing the upfront fee by five provides an approximation of the potential impact on the interest rate. To illustrate, a 15 basis point upfront fee, if fully passed through by the lender, would be roughly equivalent to an increase in the annual interest rate of three basis points. Under FHFA's planned approach, a homeowner in an affected state obtaining a 30-year, fixed-rate mortgage of $200,000 could see an increase of approximately $3.50 to $7.00 in his or her monthly mortgage payment, reflecting a range of upfront fee adjustments of 15 to 30 basis points.

The methodology used by the agency to develop the planned approach addresses only differences in the expected cost of defaults associated with single-family mortgages that will be acquired by the Enterprises in the future and are underwritten according to current standards. If FHFA had developed an approach using information on the realized default losses on loans the Enterprises acquired in the past decade, which were originated under less stringent underwriting guidelines, the increases in upfront fees in the states affected would be significantly greater, because recently acquired mortgages are expected to default at lower rates due to strengthened underwriting standards.

Methodology

The methodology used to develop the planned approach to state-level g-fee pricing relies on three key factors. The first is the expected number of days that it takes an Enterprise to foreclose and obtain marketable title to the collateral backing a mortgage in a particular state. The second is the average per-day carrying cost that the Enterprises incur in that state. The third is the expected national average default rate on single-family mortgages acquired by the Enterprises. To estimate the magnitude of the state-level differences in average total carrying cost, the estimation assumes that loans originated in each state will default at the national average default rate.

The table below, titled ''Estimated Time to Obtain Marketable Title and Cost per Day Relative to the National Average,'' provides information on the time periods and costs used to develop the proposed fees. The column titled ''Foreclosure Timeline in Days'' shows, for each state, the target number of days after the last paid installment on a mortgage for a loan servicer to complete the foreclosure sales process. Those timelines are published in each Enterprise's servicing guide and are reviewed and updated as necessary every six months. The timelines shown in the column were published in June 2012 at *https://www.efanniemae.com/sf/guides/ssg/relatedservicinginfo/pdf/foreclosuretimeframes.pdf* and *http://www.freddiemac.com/learn/pdfs/service/exhibit83.pdf.*

The timelines are periods within which Enterprise servicers are expected to complete the foreclosure process for mortgages that did not qualify for loan modification or other loss mitigation alternatives. The timelines are derived from an analysis of the Enterprises' actual experience with foreclosure processing in each state, adjusted for existing statutory requirements and certain changes in law or practice during the historical period. The published timelines also take into account the effects that foreclosure moratoriums or other extenuating circumstances and lender-specific delays outside the expected norms for that state may have had on actual foreclosure timelines.

ESTIMATED TIME TO OBTAIN MARKETABLE TITLE AND COST PER DAY RELATIVE TO THE NATIONAL AVERAGE

State [1]	Foreclosure timeline in days [2]	Estimated average ''unable-to-market'' time in days	Total time to obtain marketable title in days	Cost per day relative to the national average [3] (%)	Rank (total time * cost) [4]
AK	300	0	300	93	11
AL	270	0	270	93	2
AR	280	0	280	102	13
AZ	300	0	300	84	3
CA	300	0	300	90	7
CO	330	0	330	85	12
CT	690	0	690	109	52
DC	300	0	300	86	5
DE	480	0	480	83	27
FL	660	0	660	111	51
GA	270	0	270	101	9
GU	500	0	500	100	38
HI	500	90	590	79	35
IA	480	0	480	110	42
ID	440	0	440	88	26
IL	480	60	540	118	50
IN	480	0	480	107	40
KS	330	90	420	108	33
KY	420	30	450	97	32
LA	390	0	390	106	29
MA	350	0	350	97	22
MD	485	120	605	97	49
ME	570	0	570	95	44
MI	270	180	450	118	43
MN	270	180	450	96	30
MO	270	0	270	109	17
MS	270	0	270	107	14
MT	360	0	360	88	20
NC	300	0	300	91	10
ND	405	60	465	109	39
NE	330	0	330	114	25
NH	270	0	270	110	18

ESTIMATED TIME TO OBTAIN MARKETABLE TITLE AND COST PER DAY RELATIVE TO THE NATIONAL AVERAGE—Continued

State [1]	Foreclosure timeline in days [2]	Estimated average "unable-to-market" time in days	Total time to obtain marketable title in days	Cost per day relative to the national average [3] (%)	Rank (total time * cost) [4]
NJ	750	0	750	113	53
NM	450	60	510	91	34
NV	360	0	360	83	19
NY	820	0	820	112	54
OH	450	30	480	114	45
OK	420	0	420	104	31
OR	330	0	330	88	16
PA	480	0	480	108	41
PR	720	0	720	68	37
RI	330	0	330	107	23
SC	420	0	420	95	28
SD	360	180	540	105	46
TN	270	0	270	96	6
TX	270	0	270	132	24
UT	330	0	330	82	8
VA	270	0	270	87	1
VI	510	0	510	93	36
VT	510	30	540	105	47
WA	330	0	330	88	15
WI	480	30	510	113	48
WV	290	0	290	87	4
WY	270	120	390	86	21
National Average (UPB Weighted)	396	17	413	100	

[1] Includes the District of Columbia and certain U.S. territories. The Enterprises do not currently acquire loans in the Northern Mariana Islands or American Samoa.

[2] Foreclosure time frames are available online at: *https://www.efanniemae.com/sf/guides/ssg/relatedservicinginfo/pdf/foreclosuretimeframes.pdf* and *http://www.freddiemac.com/learn/pdfs/service/exhibit83.pdf.*

[3] Cost per day is expressed as an index relative to the UPB-weighted national average, where 100% represents the average cost. It excludes HARP loans.

[4] Rank is a function of the total time to obtain marketable title multiplied by the indexed cost. The product for each state is indicative of the relative total carrying cost upon which FHFA would base its adjustments to upfront fees. "1" represents the lowest-cost area and "54" the highest-cost area.

The column titled ''Estimated Average 'Unable-to-Market' Time in Days'' shows Enterprise estimates of the additional time after the foreclosure sale date in certain states before an Enterprise can begin to market and sell the property. These additional periods of time are often due to a statutorily set post-foreclosure ''redemption period'' that allows a borrower to redeem or recover the property by paying off the defaulted loan, or are due to other court-mandated procedures that otherwise prevent an Enterprise from marketing and selling the foreclosed property. These time estimates were based on recent Enterprise experience and state law.

The column titled ''Total Time to Obtain Marketable Title in Days'' provides the sum of the number of days shown in the two preceding columns, which equals the estimated average length of time from the date of the last mortgage payment to the date on which the foreclosed property is eligible to be marketed for sale. Although these times are based on recent data, they do not reflect changes to state laws that have not been in effect long enough to influence the foreclosure timelines published by the Enterprises.

The second factor used in the estimation is the per-day carrying cost incurred by the Enterprises on non-performing loans, which varies across the states. That cost includes property taxes, legal expenses, hazard insurance, costs related to maintenance and property repairs, and the Enterprises' costs of financing a non-performing mortgage. These costs were estimated using recent data. State and local government decisions can significantly affect the carrying cost per day, especially with respect to property taxes.

The column titled ''Cost per Day Relative to the National Average'' shows a state-by-state index of estimated per-day carrying costs per dollar of unpaid principal balance, where the national average equals 100 percent. Those index values were derived from separate estimates from each Enterprise, which FHFA weighted on the basis of the Enterprises' respective market shares in recent years.

The column titled ''Rank'' shows the total time to obtain marketable title multiplied by the indexed per-day carrying cost. For each state, this product is indicative of the relative total carrying costs upon which the agency would base its adjustments to upfront fees under the planned approach. The states, District of Columbia, and territories are ranked, with ''1'' representing the lowest-cost area and ''54'' the highest-cost area.

The first two factors—days to obtain marketable title and per-day carrying costs—provide estimates of the total carrying cost of a defaulted mortgage, by state. The third factor used in the methodology is the expected national average default rate on single-family mortgages acquired by the Enterprises. This was estimated using the national book of business acquired by Fannie Mae and Freddie Mac in the first half of 2012. Since the national average default rate is used in the estimation, the upfront fees that the Enterprises would impose on loans originated in certain states, under FHFA's planned approach, are not affected by any variation that may exist at the state level in the credit quality of loans acquired by the Enterprises, expected future house price movements, or other factors that may affect the likelihood of loan default.

The methodology combines the three factors with appropriate rates of discount to produce present-value estimates of expected total default-related carrying costs for a new mortgage in each state. Those state-level estimates were produced separately by Fannie Mae and Freddie Mac. FHFA weighted each Enterprise's estimates by its respective market share in recent years to produce a single set of estimates. FHFA then calculated the standard deviation from the mean of the state-level estimates of expected total default-related carrying costs, which was found to be 10 basis points.

The planned approach focuses on the small number of states that have expected total default-related carrying costs that significantly exceed the national average and, thus, cause the greatest increase in average loss given default. Based on current data, loans in five states would be assessed upfront fees. The state between one and one half and two standard deviations from the mean, Illinois, would have an upfront fee of 15 basis points. The states between two and three standard deviations from the mean, Florida, Connecticut, and New Jersey, would have an upfront fee of 20 basis points. The state more than three standard deviations from the mean, New York, would have an upfront fee of 30 basis points.

This approach would allow for variation in practice among the states and impose upfront fees only on those states that are statistical outliers from the rest of the country. If those states were to adjust their laws and requirements sufficiently to move their foreclosure timelines and costs more in line with the national average, the state-level, risk-based fees imposed under the planned approach would be lowered or eliminated. The approach recognizes that each state establishes legal requirements governing foreclosure processing that it judges to be appropriate for its residents. It also recognizes that unusual costs associated with practices outside of the norm in the rest of the country should be borne by the citizens of that particular state rather than absorbed by borrowers in other states or by taxpayers.

Future Changes to State-Level G-Fee Adjustments

The planned approach bases state-level adjustments to upfront fees on past experience and a limited range of cost variables. FHFA would consider, in the future, changes to its methodology to address additional variables. For example, these could include estimates of the impact of recently-enacted laws and ordinances. Such calculations would be based on experience with similar laws and ordinances and their effects on per-day carrying costs. FHFA could also include a wider range of state actions in its methodology. For example, FHFA could consider state laws and ordinances affecting the disposition of acquired real estate following a default, commonly referred to as real estate owned (REO), and address attendant costs created by state and local rules that impose charges above a certain amount or impose duties that add to the costs of the Enterprises. The Enterprises, therefore, could undertake revisions to their state-level g-fees based on experience gained with additional measurement devices.

Input

FHFA invites input from any person with views on the planned approach and on potential future changes to state-level g-fee adjustments. In particular, FHFA is interested in the following three questions:

1. Is standard deviation a reasonable basis for identifying those states that are significantly more costly than the national average?

2. Should finer distinctions be made between states than the approach described here?

3. Should an upfront fee or an upfront credit be assessed on every state based on its relationship to the national average total carrying cost, such that the net revenue effect on the Enterprises is zero?

FHFA will accept public input through its Office of Policy Analysis and Research (OPAR), no later than November 26, 2012, as the agency moves forward with its deliberations on appropriate action. Communications may be addressed to FHFA OPAR, 400 Seventh Street SW., Ninth Floor, Washington, DC 20024, or emailed to *gfeeinput@fhfa.gov.* Communications to FHFA may be made public and would include any personal information provided.

Dated: September 19, 2012.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2012–23531 Filed 9–24–12; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (''OMB'') to extend through November 30, 2015, the current Paperwork Reduction Act (''PRA'') clearance for the information collection requirements in the FTC Red Flags/Card Issuers/Address Discrepancies Rules [1] (''Rules''). That clearance expires on November 30, 2012.

DATES: Comments must be submitted by October 25, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Red Flags Rule, PRA2 Comment, Project No. P095406'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/RedFlagsPRA2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Steven Toporoff, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., NJ–3158, Washington, DC 20580. Telephone: (202) 326–2252.

SUPPLEMENTARY INFORMATION:

Title: Red Flags Rule, 16 CFR 681.1; Card Issuers Rule, 16 CFR 681.2; Address Discrepancy Rule, 16 CFR Part 641.

OMB Control Number: 3084–0137.

Type of Review: Extension of currently approved collection.

Abstract: The Red Flags Rule requires financial institutions and certain creditors to develop and implement written Identity Theft Prevention Programs. The Card Issuers Rule requires credit and debit card issuers to assess the validity of notifications of address changes under certain circumstances. The Address Discrepancy Rule provides guidance on what users of consumer reports must do when they receive a notice of address discrepancy from a nationwide consumer reporting agency. Collectively, these three anti-identity theft provisions are intended to prevent impostures from misusing another

[1] 16 CFR 681.1; 16 CFR 681.2; 16 CFR Part 641.

person's personal information for a fraudulent purpose.

On July 10, 2012, the Commission sought comment on the information collection requirements and staff's PRA burden estimates associated with the Rules (''July 10 Notice''). 77 FR 40614. No comments were received. Nonetheless, after further review of Census Bureau data, FTC staff has refined the estimated number of respondents subject to the Address Discrepancy Rule, which in turn, affects estimated hours burden in the aggregate. These revisions are detailed below.

Estimated Annual Burdens:[2]

A. Section 114: Red Flags and Card Issuers Rules:

(1) Red Flags:

(a) Estimated Number of Respondents: 167,639.

(i) High risk: 105,774.

(ii) Low risk: 61,865.

(b) Estimated Hours Burden:

(i) High-Risk Entities: 1,375,062 hours.

(ii) Low-Risk Entities: 38,150 hours.

(2) Card Issuers Rule:

(a) Estimated Number of Respondents: 17,978.

(b) Estimated Hours Burden: 71,912 hours.

(3) Combined Labor Cost Burden: $62,375,208.

B. Section 315—Address Discrepancy Rule:

(1) Estimated Number of Respondents: 1,757,385.

(2) Estimated Hours Burden: 821,780.

(3) Estimated Labor Cost Burden: $13,970,260.

C. Capital/Non-Labor Costs for Sections 114 and 315.

FTC staff believes that the Rules impose negligible capital or other non-labor costs, as the affected entities are likely to have the necessary supplies and/or equipment already (*e.g.,* offices and computers) for the information collections described herein.

Revised Estimated Burden for the Address Discrepancy Rule:

The July 10 Notice stated that the number of entities likely covered by the Address Discrepancy Rule totaled 2,449,605 users of consumer reports. That tabulation, however, contained certain double-counting. Also, part of the revised estimate is based on newer Census data [3] that is also more consistent with source material previously used to estimate the population subject to the Address Discrepancy Rule.

Using the revised inputs, staff estimates that Section 315 affects approximately 1,757,385 users of consumer reports subject to the FTC's jurisdiction. In addition, staff estimates that approximately 10,000 of these users will receive notice of a discrepancy, in the course of their usual and customary business practices, and thereby have to furnish to credit reporting agencies an address confirmation.

As detailed in the July 10 Notice, estimated average annual burden per entity to develop and follow policies and procedures for a notice of discrepancy is 28 minutes.[4] The cumulative hour burden for 1,757,385 entities would thus be 820,113 hours. The average annual burden for the 10,000 users of consumer reports to furnish a correct address to a consumer reporting agency is 10 minutes per entity, for a total of 1,667 hours. Thus, the cumulative estimated burden for Section 315 is revised to 821,780 hours.

As further detailed in the July 10 Notice, the FTC estimates an hourly rate of $17 for administrative staff to comply with the policies and procedures for the Address Discrepancy Rule.[5] Accordingly, the total annual labor cost under Section 315 is revised to $13,970,260 (821,780 hours × $17 per hour).

Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.,* the FTC is providing a second opportunity for the public to comment while seeking OMB approval to renew the pre-existing clearance for the Rule.

Request for Comment:

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before October 25, 2012. Write ''Red Flags Rule, PRA2, Project No. P095406'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential * * *,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[6] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/RedFlagsPRA2* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Red Flags Rule, PRA2, Project No. P095406'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will

[2] The calculations underlying the estimates for Section 114 are detailed in the related July 10, 2012 **Federal Register** Notice. See 77 FR at 40614.

[3] *http://www.census.gov/econ/susb/* (Statistics of U.S. Businesses, ''U.S., All industries'': 2009 ''County Business Patterns'' spreadsheet).

[4] 77 FR at 40617.

[5] Id.

[6] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

consider all timely and responsive public comments that it receives on or before October 25, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

Willard K. Tom,

General Counsel.

[FR Doc. 2012–23524 Filed 9–24–12; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice-QDA–2012–01; Docket No. 2012–0002; Sequence 17]

Multiple Award Schedule (MAS) Program Continuous Open Season—Operational Change; Extension of Comment Period

AGENCY: Federal Acquisition Service (FAS), General Services Administration (GSA).

ACTION: Notice with a request for comments; extension of comment period.

SUMMARY: The General Services Administration (GSA), Federal Acquisition Service (FAS) issued a notice on July 23, 2012. The comment period is extended to provide additional time for interested parties to the review and submit comments on the notice.

DATES: The comment period for the notice published in the **Federal Register** at 77 FR 43084, July 23, 2012, is extended for 30 days after publication in the **Federal Register**.

This change in operations will become effective 60 days after publication in the **Federal Register**.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before 30 days after publication in the **Federal Register**. This will allow GSA sufficient time to consider the comments prior to the effective date of this notice.

ADDRESSES: Submit comments in response to Notice-QDA–2012–01 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Notice-QDA–2012–01''. Select the link ''Submit a Comment'' that corresponds with ''Notice-QDA–2012–01.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Notice-QDA–2012–01'' on your attached document.
- *FAX:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite Notice-QDA–2012–01, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mrs. Angela Lehman, telephone 703–605–9541, email *DemandBasedModel@gsa.gov.*

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA), Federal Acquisition Service (FAS) published a notice in the **Federal Register** at 77 FR 43084, July 23, 2012. The comment period is extended to provide additional time for interested parties to the review and submit comments on the notice.

Dated: September 12, 2012.

Houston Taylor,

Assistant Commissioner, Office of Acquisition Management, Federal Acquisition Service, General Services Administration.

[FR Doc. 2012–23607 Filed 9–24–12; 8:45 am]

BILLING CODE 6820–89–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: State Self-Assessment Review and Report.

OMB No.: 0970–0223.

Description: Section 454(15)(A) of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, requires each State to annually assess the performance of its child support enforcement program in accordance with standards specified by the Secretary of the Department of Health and Human Services, and to provide a report of the findings to the Secretary. This information is required to determine if States are complying with Federal child support mandates and providing the best services possible. The report is also intended to be used as a management tool to help States evaluate their programs and assess performance.

Respondents: State Child Support Enforcement Agencies or the Department/Agency/Bureau responsible for Child Support Enforcement in each State.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Self-assessment report	54	1	4	216

Estimated Total Annual Burden Hours: 216.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant

Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–23528 Filed 9–24–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0980]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance on Reagents for Detection of Specific Novel Influenza A Viruses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on guidance on reagents for detection of specific novel influenza A viruses.

DATES: Submit either electronic or written comments on the collection of information by November 26, 2012.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *Daniel.Gittleson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance on Reagents for Detection of Specific Novel Influenza A Viruses—(OMB Control Number 0910–0584)—Extension

In accordance with section 513 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c), FDA evaluated an application for an in vitro diagnostic device for detection of influenza subtype H5 (Asian lineage), commonly known as avian flu. FDA concluded that this device is properly classified into class II in accordance with 21 U.S.C. 360c(a)(1)(B), because it is a device for which the general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, but there is sufficient information to establish special controls to provide such assurance. The statute permits FDA to establish as special controls many different things, including postmarket surveillance, development and dissemination of guidance recommendations, and ''other appropriate actions as the Secretary deems necessary'' (21 U.S.C. 360c(a)(1)(B)). This information collection is a measure that FDA determined to be necessary to provide reasonable assurance of safety and effectiveness of reagents for detection of specific novel influenza A viruses.

FDA issued an order classifying the H5 (Asian lineage) diagnostic device into class II on February 3, 2006, establishing the special controls necessary to provide reasonable assurance of the safety and effectiveness of that device and similar future devices. The new classification was codified in 21 CFR 866.3332, a regulation that describes the new classification for reagents for detection of specific novel influenza A viruses and sets forth the special controls that help to provide a reasonable assurance of the safety and effectiveness of devices classified under that regulation. The regulation refers to the special controls guidance document entitled ''Class II Special Controls Guidance Document: Reagents for Detection of Specific Novel Influenza A Viruses,'' which provides recommendations for measures to help provide a reasonable assurance of safety and effectiveness for these reagents. The guidance document recommends that sponsors obtain and analyze postmarket data to ensure the continued reliability of their device in detecting the specific novel influenza A virus that it is intended to detect, particularly given the propensity for influenza viruses to mutate and the potential for changes in disease prevalence over time. As updated sequences for novel influenza A viruses become available from the World Health Organization, National Institutes of Health, and other public health entities, sponsors of reagents for detection of specific novel influenza A viruses will collect this information, compare them with the primer/probe

sequences in their devices, and incorporate the result of these analyses into their quality management system, as required by 21 CFR 820.100(a)(1). These analyses will be evaluated against the device design validation and risk analysis required by 21 CFR 820.30(g), to determine if any design changes may be necessary.

FDA estimates that 10 respondents will be affected annually. Each respondent will collect this information twice per year; each response is estimated to take 15 hours. This results in a total data collection burden of 300 hours. The guidance also refers to previously approved information collections found in FDA regulations. The collections of information in 21 CFR 801 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 807 subpart E have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

FD&C Act section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
513(g)	10	2	20	15	300

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 17, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–23544 Filed 9–24–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0597]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Draft Guidance for Industry: Oversight of Clinical Investigations: A Risk-Based Approach to Monitoring

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 25, 2012.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–New and title ''Draft Guidance for Industry on Oversight of Clinical Investigations: A Risk-Based Approach to Monitoring; Availability.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726, *Ila.Mizrachi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Draft Guidance for Industry: Oversight of Clinical Investigations: A Risk-Based Approach to Monitoring—(OMB Control Number 0910–New)

Description of Respondents: Respondents to this collection of information are sponsors that monitor clinical investigations.

Burden Estimate: The draft guidance is intended to assist sponsors of clinical investigations in developing risk-based monitoring strategies and plans for investigational studies of medical products, including human drug and biological products, medical devices, and combinations thereof. The guidance is intended to make clear that sponsors can use a variety of approaches to fulfill their responsibilities related to monitoring investigator conduct and the progress of investigational new drug (IND) or investigational device exemption (IDE) studies. The guidance describes strategies for monitoring activities performed by a sponsor, or contract research organizations (CROs), that focus on the conduct, oversight, and reporting of findings of an investigation by clinical investigators. The guidance recommends strategies that reflect a risk-based approach to monitoring that focuses on critical study parameters and relies on a combination of monitoring activities to oversee a study effectively. The guidance specifically encourages greater reliance on centralized monitoring methods, where appropriate.

Sponsors are required to provide appropriate oversight of their clinical investigations to ensure adequate protection of the rights, welfare, and safety of human subjects and the quality and integrity of the resulting data submitted to FDA.[1] As part of this oversight, sponsors of clinical investigations are required to monitor the conduct and progress of their clinical investigations.[2] [3] The regulations are not specific about how sponsors are to conduct monitoring of clinical investigations and, therefore, are compatible with a range of approaches to monitoring. FDA currently has OMB approval for the information collection required under part 812 (OMB control number 0910–0078) and part 312, including certain provisions under subpart D (OMB control number 0910–0014).

However, the collections of information associated with this draft guidance that are not currently approved under OMB control numbers 0910–0014 or 0910–0078 are as follows:

Development of Comprehensive Monitoring Plan: Section IV.D of the draft guidance recommends that sponsors develop a prospective, detailed monitoring plan that describes the monitoring methods, responsibilities,

[1] Part 312 (21 CFR part 312), subpart D, generally (Responsibilities of Sponsors and Investigators) and part 812 (21 CFR part 812), subpart C, generally (Responsibilities of Sponsors).

[2] Section 312.50 requires a sponsor to, among other things, ensure ''proper monitoring of the investigation(s)'' and ''that the investigation(s) is conducted in accordance with the general investigational plan and protocols contained in the IND.''

[3] Also see §§ 312.53(d), 312.56(a), 812.40, and 812.43(d).

and requirements for each clinical trial. The plan should provide those involved in monitoring with adequate information to effectively carry out their duties. All sponsor and CRO personnel who may be involved with monitoring, including those who review and/or determine appropriate action regarding potential issues identified through monitoring, should review the monitoring plan. The components of a monitoring plan are described in the draft guidance, including monitoring plan amendments (i.e., the review and revision of monitoring plans and processes for timely updates). FDA understands that sponsors currently develop monitoring plans; however, not all monitoring plans contain all the elements described in the guidance. Therefore, our following burden estimate provides the additional time that a sponsor would expend in developing a comprehensive monitoring plan based on the recommendations in the guidance. We estimate that approximately 88 sponsors will develop approximately 132 comprehensive monitoring plans in accordance with the draft guidance, and that the added burden for each plan will be approximately 4 hours to develop, including the time needed for preparing monitoring plan amendments when appropriate (a total of 528 hours).

Voluntary Submission of Monitoring Plans to FDA: Section IV.D of the draft guidance permits sponsors to voluntarily and prospectively submit their monitoring plans to the appropriate Center for Drug Evaluation and Research (CDER) review division and request input from the division's clinical trial oversight component (sponsors of significant risk device studies are already required under § 812.25(e) to submit and maintain written procedures for monitoring). We estimate that approximately 22 sponsors will submit approximately 33 monitoring plans to CDER for feedback and that each submission will take approximately 2 hours to complete (a total of 66 hours).

In the **Federal Register** of August 29, 2011 (76 FR 53683), FDA published a 60-day notice requesting public comment on the proposed collection of information. The following is a summary of the comments and FDA's response to the comments for the two collections of information associated with the draft guidance that are not currently approved by OMB.

Development of Comprehensive Monitoring Plan:

FDA received comments that the guidance lacks specific information on development and initialization of risk assessment plans, appropriate mitigation plans, and execution of mitigation plans through the monitoring plan. Addition of use of risk management tools, along with potential applications for using risk-based monitoring strategies would help facilitate implementation.

In response to the comments, FDA included additional detail in the final guidance in an effort to enhance the quality, utility, and clarity of the information collected. Specifically, FDA included additional detail on the development of a monitoring plan, which focuses on the important and likely risks, identified by the risk assessment, to critical data and processes. In addition, FDA included additional guidance on the steps involved in performing a risk assessment and references to tools and methodologies that can be used to perform a risk assessment. FDA clarified that the guidance does not provide comprehensive detail on how to perform a risk assessment.

FDA received several comments that the guidance should specify that it is acceptable for monitoring plans to reference existing standard operating procedures (SOPs) or other documents.

The draft guidance specifies that a monitoring plan may reference existing policies and procedures in order to minimize the burden of the collection of information.

Voluntary Submission of Monitoring Plans to FDA:

FDA received numerous comments that the lack of specific details about FDA review of the monitoring plans early enough in the IND process could delay startup of clinical trials. In addition, numerous comments requested a detailed process or procedure.

Although the draft guidance stated that CDER was considering establishing processes through which sponsors could voluntarily submit monitoring plans for CDER feedback, CDER has concluded that CDER does not have the resources necessary to commit to such a review at this time. CDER is exploring the possibility of a pilot program in this area in the future.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Draft guidance on monitoring clinical investigations	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Development of Comprehensive Monitoring Plan	88	1.5	132	4	528

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 17, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–23545 Filed 9–24–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0938]

Draft Guidance for Industry on Abbreviated New Drug Applications: Stability Testing of Drug Substances and Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''ANDAs: Stability Testing of Drug Substances and Products.'' FDA is recommending that generic drug manufacturers follow the stability testing recommendations in the International Conference on Harmonisation (ICH) guidances Q1A(R2) through Q1E. The use of these ICH recommendations will standardize FDA's stability testing policies, which will help make the abbreviated new

drug application (ANDA) review process more efficient.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by December 24, 2012.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Radhika Rajagopalan, Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., MPN2, Rm. 243, HFD–640, Rockville, MD 20855, 240–276–8546.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''ANDAs: Stability Testing of Drug Substances and Products.'' Because of increases in numbers of ANDAs and their complexity, the FDA is considering standardizing stability testing policies by adopting recommendations in the following stability related ICH guidances: (1) ''Q1A (R2) Stability Testing of New Drug Substances and Products,'' November 2003; (2) ''Q1B Photostability Testing of New Drug Substances and Products,'' November 1996; (3) ''Q1C Stability Testing for New Dosage Forms,'' November 1996; (4) ''Q1D Bracketing and Matrixing Designs for Stability Testing of New Drug Substances and Products,'' January 2003; and (5) ''Q1E Evaluation of Stability Data,'' June 2004. FDA is also considering adopting the ICH outlined definitions, glossaries, references, and attachments.

Although the ICH stability guidances were developed for new drug applications to ensure the stability of new drug substances and products, FDA believes the recommendations provided in the ICH guidances on stability testing are appropriate for ANDAs as well. This guidance contains FDA's recommendation that ANDAs submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), and the drug master files that support ANDAs, follow the stability recommendations provided in the ICH stability guidances.

This guidance also replaces stability study storage condition recommendations made in an August 18, 1995, letter that the Center for Drug Evaluation and Research's (CDER's) Office of Generic Drugs (OGD) sent to all ANDA applicants, which is available on CDER's Web site: *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm064995.htm.* The letter stated that OGD would accept ANDAs with the ICH recommended long term room temperature conditions for stability studies, 25 ± 2°C, 60 ± 5 percent RH.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on stability testing of drug substances and products for ANDAs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm or http://www.regulations.gov*.

Dated: September 18, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–23543 Filed 9–24–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2001–D–0254 (Formerly Docket No. 2001D–0037)]

Guidance for Industry: Pre-Storage Leukocyte Reduction of Whole Blood and Blood Components Intended for Transfusion; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Pre-Storage Leukocyte Reduction of Whole Blood and Blood Components Intended for Transfusion'' dated September 2012. The guidance document provides blood establishments with recommendations for pre-storage leukocyte reduction of Whole Blood and blood components intended for transfusion, including recommendations for validation and quality control monitoring of the leukocyte reduction process. The guidance announced in this notice finalizes the draft guidance of the same title dated January 2011 and supersedes the FDA memorandum issued on May 29, 1996, entitled ''Recommendations and Licensure Requirements for Leukocyte-Reduced Blood Products.''

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lori Jo Churchyard, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401

Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Pre-Storage Leukocyte Reduction of Whole Blood and Blood Components Intended for Transfusion'' dated September 2012. The guidance document provides blood establishments with recommendations for pre-storage leukocyte reduction of Whole Blood and blood components intended for transfusion, including recommendations for validation and quality control monitoring of the leukocyte reduction process. The guidance also provides information to assist licensed blood establishments for submitting biologics license application supplements to include leukocytes reduced components.

In the **Federal Register** of January 31, 2011 (76 FR 5386), FDA announced the availability of the draft guidance of the same title dated January 2011. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. A summary of changes includes the following: Removing the recommendation for use of a mixing device during collection, modifying definitions, and clarifying performance qualification criteria. In addition, editorial changes were made to improve clarity. The guidance announced in this notice finalizes the draft guidance dated January 2011 and supersedes the FDA memorandum issued on May 29, 1996, entitled ''Recommendations and Licensure Requirements for Leukocyte-Reduced Blood Products.''

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

The guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 607 and Form FDA 2830 have been approved under OMB control number 0910–0052; the collections of information in 21 CFR 606.100(b), 606.100(c), 606.121, and 606.122 have been approved under OMB control number 0910–0116; the collections of information in 21 CFR 211.192 and 211.198 have been approved under OMB control number 0910–0139; and the collections of information in 21 CFR 601.12 and 610.60 and Form FDA 356h have been approved under OMB control number 0910–0338.

III. Comments

Interested persons may submit either written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**) or electronic comments to *http://www.regulations.gov.* It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: September 18, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–23542 Filed 9–24–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2012–0028]

Fee for Services To Support FEMA's Offsite Radiological Emergency Preparedness Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) is establishing a fiscal year (FY) 2014 hourly rate of $57.41 for assessing and collecting fees from Nuclear Regulatory Commission (NRC) licensees for services provided by FEMA personnel for FEMA's Radiological Emergency Preparedness (REP) Program.

DATES: This hourly rate is effective for FY 2014 (October 1, 2013, to September 30, 2014).

FOR FURTHER INFORMATION CONTACT: Andrew Mitchell, Director, Technological Hazards Division, Department of Homeland Security/FEMA, 1800 S. Bell Street—CC826, Mail Stop 3025, Arlington, VA 20598–3025; (202) 646–2618 (phone), or (email) *Andrew.Mitchell2@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: As authorized by 42 U.S.C. 5196e, FEMA collects fees from NRC licensees of commercial nuclear power plants to offset the costs of its REP program. The fees that FEMA receives are deposited in the Treasury's REP Program Fund to offset the actual costs by FEMA for its REP Program. The methodology FEMA uses to assess and collect this fee is in FEMA's regulations at Title 44 Code of Federal Regulations (CFR) part 354. FEMA assesses user fees from licensees using a methodology that includes charges for REP Program services provided by both FEMA personnel and FEMA contractors. The fee for each site consists of two distinct components: (1) A site-specific, biennial exercise-related component, and (2) a flat fee component.

As required by regulation, FEMA annually revises the hourly rate used in 44 CFR 354.4(b) for site-specific, biennial exercise-related costs for FEMA personnel to reflect actual budget and cost of living factors. In FY 2014, FEMA will use an hourly rate of $57.41 to calculate the site-specific, biennial exercise-related component of the user fee for services that FEMA personnel provide in 44 CFR 354.4(b). This hourly rate does not apply to: (1) Services that FEMA contractor personnel provide under the site-specific, exercise-related component of the user fee, or (2) services provided by FEMA personnel under the flat fee component of the user fee. FEMA will determine the cost for the site-specific, biennial exercise-related component for FEMA contractor personnel services in accordance with 44 CFR 354.4(c). FEMA will determine the flat fee component of the user fee in accordance with 44 CFR 354.4(d).

Dated: September 12, 2012.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–23596 Filed 9–24–12; 8:45 am]

BILLING CODE 9110–21–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4080–DR; Docket ID FEMA–2012–0002]

Louisiana; Amendment No. 11 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Louisiana (FEMA–4080–DR), dated August 29, 2012, and related determinations.

DATES: *Effective Date:* September 14, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Louisiana is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of August 29, 2012.

The parishes of East Baton Rouge and West Feliciana for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).
East Feliciana Parish for Individual Assistance (already designated for Public Assistance, including direct federal assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–23595 Filed 9–24–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4071–DR; Docket ID FEMA–2011–0001]

West Virginia; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of West Virginia (FEMA–4071–DR), dated July 23, 2012, and related determinations.

DATES: EFFECTIVE DATE: September 19, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of West Virginia is hereby amended to include the Individual Assistance program for the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of July 23, 2012.

Fayette, Kanawha, Nicholas, and Raleigh Counties for Individual Assistance (already designated for Public Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–23597 Filed 9–24–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5665–N–01]

Performance Review Board

AGENCY: Office of the Deputy Secretary, HUD.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the appointments of, Maurice A. Jones, Michael A. Anderson, Mary K. Kinney, Jean Lin Pao, and Susan J. Shuback as members of the Departmental Performance Review Board. The address is: Department of Housing and Urban Development, Washington, DC 20410–0050.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Juliette Middleton, Director, Office of Executive Resources, Department of Housing and Urban Development, Washington, DC 20410. Telephone (202) 708–1381. (This is not a toll-free number)

Dated: September 18, 2012.

Maurice A. Jones,

Deputy Secretary.

[FR Doc. 2012–23569 Filed 9–24–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000: HAG12–0311]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management Oregon/Washington State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Washington
T. 11 N., Rs. 20 & 21 E., accepted September 17, 2012.
T. 28 N., R. 15 W., accepted September 17, 2012.

ADDRESSES: A copy of the plats may be obtained from the Land Office at the Bureau of Land Management, Oregon/Washington State Office, 333 SW. 1st Avenue, Portland, Oregon 97204, upon

required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the Oregon/Washington State Director, Bureau of Land Management, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6124, Branch of Geographic Sciences, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204. 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: 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.

Mary J.M. Hartel,

Chief, Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2012–23563 Filed 9–24–12; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Integrated Circuit Chips and Products Containing the Same,* DN 2915 the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Realtek Semiconductor Corporation on September 19, 2012. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuit chips and products containing the same. The complaint names as respondents LSI Corporation of Milpitas, CA and Seagate Technology of Cupertino, CA.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 2915'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

Issued: September 20, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012–23566 Filed 9–24–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Membership of the Senior Executive Service Standing Performance Review Boards

AGENCY: Department of Justice.

ACTION: Notice of Department of Justice's standing members of the Senior Executive Service Performance Review Boards.

SUMMARY: Pursuant to the requirements of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its 2012 Senior Executive Service (SES) Standing Performance Review Boards (PRBs). The purpose of a PRB is to provide fair and impartial review of SES performance appraisals, bonus recommendations and pay adjustments. The PRBs will make recommendations regarding the final performance ratings to be assigned, SES bonuses and/or pay adjustments to be awarded.

FOR FURTHER INFORMATION CONTACT: Terence L. Cook, Director, Human Resources, Justice Management Division, Department of Justice, Washington, DC 20530; (202) 514–4350.

Lee J. Lofthus,

Assistant Attorney General for Administration.

Name	Position title
Office of the Attorney General—OAG	
GRINDLER, GARY	CHIEF OF STAFF.
DELERY, STUART	COUNSELOR TO THE ATTORNEY GENERAL.
GREENFELD, HELAINE ANN	COUNSELOR TO THE ATTORNEY GENERAL.
MORAN, MOLLY	COUNSELOR TO THE ATTORNEY GENERAL.
PHILLIPS, CHANNING	COUNSELOR TO THE ATTORNEY GENERAL.
RICHARDSON, MARGARET	DEPUTY CHIEF OF STAFF AND COUNSELOR.
Office of the Deputy Attorney General—ODAG	
GOLDBERG, STUART	PRINCIPAL ASSOCIATE DEPUTY ATTORNEY GENERAL.
MARGOLIS, DAVID	ASSOCIATE DEPUTY ATTORNEY GENERAL.
BURROWS, CHARLOTTE	ASSOCIATE DEPUTY ATTORNEY GENERAL.
REICH, STEVEN	ASSOCIATE DEPUTY ATTORNEY GENERAL.
SCHOOLS, SCOTT N.	ASSOCIATE DEPUTY ATTORNEY GENERAL.
OHLSON, KEVIN A.	CHIEF, PROFESSIONAL MISCONDUCT REVIEW UNIT.
GOLDSMITH, ANDREW	NATIONAL CRIMINAL DISCOVERY COORDINATOR.
Office of the Associate Attorney General—OASG	
TAYLOR, ELIZABETH GORDON	PRINCIPAL DEPUTY ASSOCIATE ATTORNEY GENERAL.
CHUN, A. MARISA	DEPUTY ASSOCIATE ATTORNEY GENERAL.
HIRSCH, SAMUEL	DEPUTY ASSOCIATE ATTORNEY GENERAL.
MCEVOY, JULIA	DEPUTY ASSOCIATE ATTORNEY GENERAL.
Office of the Solicitor General—OSG	
SRINIVASAN, SHRIKANTH	PRINCIPAL DEPUTY SOLICITOR GENERAL.
DREEBEN, MICHAEL R.	DEPUTY SOLICITOR GENERAL.
KNEEDLER, EDWIN S.	DEPUTY SOLICITOR GENERAL.
STEWART, MALCOLM L.	DEPUTY SOLICITOR GENERAL.
Antitrust Division—ATR	
WAYLAND, JOSEPH	PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL.
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GARVEY, VINCENT M.	DEPUTY BRANCH DIRECTOR.
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COLLETTE, MATTHEW.	DEPUTY DIRECTOR, APPELLATE STAFF.
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Executive Office for U.S. Trustees—EOUST	
WHITE III, CLIFFORD J.	DIRECTOR.
CREWSON, PHILIP E.	DEPUTY DIRECTOR MANAGEMENT.
ELLIOTT, RAMONA D.	DEPUTY DIRECTOR GENERAL COUNSEL.
REDMILES, MARK A.	COUNSEL TO THE DIRECTOR.
Justice Management Division—JMD	
LOFTHUS, LEE J.	ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION.

Name	Position title
SANTANGELO, MARI BARR	DEPUTY ASSISTANT ATTORNEY GENERAL FOR HUMAN RESOURCES AND ADMINISTRATION (CHCO).
ALLEN, MICHAEL H.	DEPUTY ASSISTANT ATTORNEY GENERAL FOR POLICY, MANAGEMENT, AND PLANNING, AND CHIEF OF STAFF.
LAURIA-SULLENS, JOLENE A.	DEPUTY ASSISTANT ATTORNEY GENERAL/CONTROLLER.
MCCORMACK, LUKE	DEPUTY ASSISTANT ATTORNEY GENERAL FOR IT MANAGEMENT/CIO.
GARY, ARTHUR	GENERAL COUNSEL.
ALVAREZ, CHRISTOPHER C.	DEPUTY DIRECTOR (AUDITING), FINANCE STAFF.
ATSATT, MARILYNN B.	DEPUTY DIRECTOR, BUDGET STAFF, PROGRAMS AND PERFORMANCE.
BEASLEY, ROGER	DIRECTOR, OPERATIONS SERVICES STAFF.
CLAREY, KATHRYN L.	SPECIAL ADVISOR FOR FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY.
DEELEY, KEVIN	DEPUTY CHIEF INFORMATION OFFICER FOR IT SECURITY.
DEFALAISE, LOUIS	DIRECTOR, OFFICE OF ATTORNEY RECRUITMENT AND MANAGEMENT.
DUNLAP, JAMES L.	DIRECTOR, SECURITY AND EMERGENCY PLANNING STAFF.
FELDT, DENNIS G.	DIRECTOR, LIBRARY STAFF.
HOLTGREWE, KENT L.	DIRECTOR, IT POLICY AND PLANNING STAFF.
JOHNSTON, JAMES W.	DIRECTOR, PROCUREMENT SERVICES STAFF.
JORDAN, WYEVETRA	APPROPRIATION LIAISON OFFICER.
MORGAN, MELINDA B.	DIRECTOR, FINANCE STAFF.
MURRAY, JOHN W.	DIRECTOR, ENTERPRISE SOLUTIONS STAFF.
COOK, TERENCE L.	DIRECTOR, HUMAN RESOURCES.
NORRIS, J. TREVOR	DEPUTY DIRECTOR, HUMAN RESOURCES.
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OLDS, CANDACE A.	DIRECTOR, ASSET FORFEITURE MANAGEMENT STAFF.
O'LEARY, KARIN	DIRECTOR, BUDGET STAFF.
SUTTON, JEFFREY W.	DEPUTY DIRECTOR, BUDGET STAFF, OPERATIONS AND FUNDS CONTROL.
OLSON, ERIC R.	DEPUTY, CHIEF INFORMATION OFFICER FOR E-GOVERNMENT SERVICES STAFF.
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TOSCANO JR., RICHARD A.	DIRECTOR, EQUAL EMPLOYMENT OPPORTUNITY STAFF.
National Security Division—NSD	
CARLIN, JOHN	PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL AND CHIEF OF STAFF.
WIEGMANN, JOHN B.	DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF LAW AND POLICY.
GAUHAR, TASHINA	DEPUTY ASSISTANT ATTORNEY GENERAL.
TOSCAS, GEORGE Z.	DEPUTY ASSISTANT ATTORNEY GENERAL (COUNTER-ESPIONAGE–COUNTERTERRORISM).
BRADLEY, MARK A.	SPECIAL COUNSEL FOR OVERSIGHT SECTION.
DION, JOHN J.	CHIEF, COUNTERESPIONAGE SECTION.
DUNNE, STEVEN M.	CHIEF, APPELLATE UNIT.
EVANS, STUART	DEPUTY CHIEF, OPERATIONS SECTION.
KAYE, JANICE A.	ETHICS OFFICER.
KEEGAN, MICHAEL	DEPUTY CHIEF, COUNTERTERRORISM SECTION.
KENNEDY, J. LIONEL	SPECIAL COUNSEL FOR NATIONAL SECURITY.
MULLANEY, MICHAEL J.	CHIEF, COUNTERTERRORISM SECTION.
O'CONNOR, KEVIN	CHIEF, OVERSIGHT SECTION.
PELAK, STEVEN W.	DEPUTY CHIEF, COUNTERESPIONAGE SECTION.
SANZ–REXACH, GABRIEL	CHIEF, OPERATIONS SECTION.
Office of Community Oriented Policing Services—COPS	
MELEKIAN, BERNARD K.	DIRECTOR.
EDERHEIMER, JOSHUA A.	PRINCIPAL DEPUTY DIRECTOR.
Office of Information Policy—OIP	
PUSTAY, MELANIE ANN	DIRECTOR.
Office of the Inspector General—OIG	
SCHNEDAR, CYNTHIA A.	DEPUTY INSPECTOR GENERAL.
BEAUDET, RAYMOND J.	ASSISTANT INSPECTOR GENERAL FOR AUDIT.
BLIER, WILLIAM M.	GENERAL COUNSEL.
DORSETT, GEORGE L.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.
FORTINE OCHOA, CAROL	ASSISTANT INSPECTOR GENERAL FOR OVERSIGHT AND REVIEW.

Name	Position title
MARSKE, CARYN A.	DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDIT.
MCLAUGHLIN, THOMAS F.	ASSISTANT INSPECTOR GENERAL INVESTIGATIONS.
PETERS, GREGORY T.	ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND PLANNING.
LERNER, JAY	SENIOR COUNSEL TO THE INSPECTOR GENERAL.
Office of Justice Programs—OJP	
LEARY, MARY LOU	PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL.
BURCH II, JAMES H.	DEPUTY ASSISTANT ATTORNEY GENERAL OPERATIONS MANAGEMENT.
AYERS, NANCY LYNN	DEPUTY ADMINISTRATOR FOR POLICY, OJJDP.
FROST, JOYE	DEPUTY DIRECTOR, OFFICE FOR VICTIMS OF CRIME.
GARRY, EILEEN M.	DEPUTY DIRECTOR FOR PLANNING, BUREAU OF JUSTICE ASSISTANCE.
TRAUTMAN, TRACEY	DEPUTY DIRECTOR FOR PROGRAMS, BUREAU OF JUSTICE ASSISTANCE.
GREENHOUSE, DENNIS E.	DIRECTOR, COMMUNITY CAPACITY DEVELOPMENT OFFICE.
HANES, MELODEE	PRINCIPAL DEPUTY ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.
FEUCHT, THOMAS E.	EXECUTIVE SCIENCE ADVISOR, NATIONAL INSTITUTE OF JUSTICE.
HENNEBERG, MAUREEN A.	DIRECTOR, OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.
IWANOW, WALTER	CHIEF INFORMATION OFFICER.
MADAN, RAFAEL A.	GENERAL COUNSEL.
MAHONEY, KRISTEN	DEPUTY DIRECTOR, POLICY MANAGEMENT, BUREAU OF JUSTICE ASSISTANCE.
MERKLE, PHILLIP	DIRECTOR, OFFICE OF ADMINISTRATION.
ROBERTS, MARILYN M.	DEPUTY ADMINISTRATOR FOR PROGRAMS, OJJDP.
SABOL, WILLIAM	DEPUTY DIRECTOR, BUREAU OF JUSTICE STATISTICS.
RIDGEWAY, GREG	DEPUTY DIRECTOR, NATIONAL INSTITUTE OF JUSTICE, OFFICE OF SCIENCE AND TECHNOLOGY.
BALDWIN, LINDA	SMART COORDINATOR.
BENDA, BONNIE LEIGH	CHIEF FINANCIAL OFFICER.
MARTIN, RALPH	DEPUTY CHIEF FINANCIAL OFFICER.
BECK, ALLEN J.	SENIOR STATISTICIAN.
Office of Legal Counsel—OLC	
KRASS, CAROLINE DIANE	PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL.
KOFFSKY, DANIEL L.	DEPUTY ASSISTANT ATTORNEY GENERAL.
RODRIGUEZ, CRISTINA	DEPUTY ASSISTANT ATTORNEY GENERAL.
BIES, JOHN	DEPUTY ASSISTANT ATTORNEY GENERAL.
THOMPSON, KARL R.	DEPUTY ASSISTANT ATTORNEY GENERAL.
MIZER, BENJAMIN	DEPUTY ASSISTANT ATTORNEY GENERAL.
COLBORN, PAUL P.	SPECIAL COUNSEL.
HART, ROSEMARY A.	SPECIAL COUNSEL.
SINGDAHLSEN, JEFFREY P.	SENIOR COUNSEL.
Office of Legal Policy—OLP	
TYRANGIEL, ELANA	PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL.
JONES, KEVIN ROBERT	DEPUTY ASSISTANT ATTORNEY GENERAL.
THIEMANN, ROBYN L.	DEPUTY ASSISTANT ATTORNEY GENERAL.
MELSON, KENNETH	SENIOR ADVISOR.
ZUBRENSKY, MICHAEL	DEPUTY ASSISTANT ATTORNEY GENERAL.
KARP, DAVID J.	SENIOR COUNSEL.
JACOBS, JOANNA	SENIOR COUNSEL FOR ALTERNATIVE DISPUTE RESOLUTION.
Office of Legislative Affairs—OLA	
AGRAST, MARK D.	DEPUTY ASSISTANT ATTORNEY GENERAL.
APPELBAUM, JUDITH C.	DEPUTY ASSISTANT ATTORNEY GENERAL.
BURTON, M. FAITH	SPECIAL COUNSEL.
ROBERSON, PORTIA L.	DIRECTOR, OFFICE OF INTERGOVERNMENTAL AND PUBLIC LIAISON.
Office of Professional Responsibility—OPR	
ASHTON, ROBIN	COUNSEL FOR PROFESSIONAL RESPONSIBILITY.
WEINSHEIMER, G. BRADLEY	DEPUTY COUNSEL ON PROFESSIONAL RESPONSIBILITY.

Name	Position title
Office of Public Affairs—PAO	
SCHMALER, TRACY	DIRECTOR.
Office of the Federal Detention Trustee—OFDT	
PEARSON, MICHAEL A.	FEDERAL DETENTION TRUSTEE.
MUSEL, DAVID F.	DIRECTOR, JPATS.
VARGO, BRUCE E.	SENIOR ADVISOR (DEPUTY).
Office of the Pardon Attorney—OPA	
RODGERS, RONALD L.	PARDON ATTORNEY.
Office on Violence Against Women—OVW	
HANSON, BEATRICE	PRINCIPAL DEPUTY DIRECTOR.
Professional Responsibility Advisory Office—PRAO	
DUNSTON, JERRI U.	DIRECTOR.
Tax Division—TAX	
DICICCO, JOHN	DEPUTY ASSISTANT ATTORNEY GENERAL.
CIMINO, RONALD ALLEN	DEPUTY ASSISTANT ATTORNEY GENERAL.
ASHFORD, TAMARA	DEPUTY ASSISTANT ATTORNEY GENERAL.
BALLWEG, MITCHELL J.	CHIEF, CRIMINAL ENFORCEMENT SECTION, WESTERN REGION.
CIHLAR, FRANK P.	CHIEF, CRIMINAL APPEALS AND TAX ENFORCEMENT POLICY SECTION.
DONOHUE, DENNIS M.	SENIOR LITIGATION COUNSEL.
PINCUS, DAVID	CHIEF, COURT OF FEDERAL CLAIMS SECTION.
GIBSON, STUART D.	SENIOR TRIAL ATTORNEY.
HAGLEY, JUDITH	SENIOR TRIAL ATTORNEY.
HARTT III, GROVER	SENIOR TRIAL ATTORNEY.
HEALD, SETH G.	CHIEF, CIVIL TRIAL SECTION, CENTRAL REGION.
HUBBERT, DAVID A.	CHIEF, CIVIL TRIAL SECTION, EASTERN REGION.
HYTKEN, LOUISE P.	CHIEF, CIVIL TRIAL SECTION, SOUTHWESTERN REGION.
JOHNSON, CORY	SENIOR TRIAL ATTORNEY.
KEARNS, MICHAEL J.	CHIEF, CIVIL TRIAL SECTION, SOUTHERN REGION.
KOVACEV, ROBERT	SENIOR TRIAL ATTORNEY.
LINDQUIST III, JOHN A.	SENIOR TRIAL ATTORNEY.
MELAND, DEBORAH	CHIEF, OFFICE OF REVIEW.
MULLARKEY, DANIEL P.	CHIEF, CIVIL TRIAL SECTION, NORTHERN REGION.
PAGUNI, ROSEMARY E.	CHIEF, CRIMINAL ENFORCEMENT SECTION, NORTHERN REGION.
ROTHENBERG, GILBERT S.	CHIEF, APPELLATE SECTION.
SALAD, BRUCE M.	CHIEF, CRIMINAL ENFORCEMENT SECTION, SOUTHERN REGION.
SAWYER, THOMAS	SENIOR TRIAL ATTORNEY.
SERGI, JOSEPH A.	SENIOR TRIAL ATTORNEY.
SHATZ, EILEEN M.	SPECIAL LITIGATION COUNSEL.
SMITH, COREY J.	SENIOR TRIAL ATTORNEY.
STEHLIK, NOREENE C.	SENIOR TRIAL ATTORNEY.
SULLIVAN, JOHN	SENIOR TRIAL ATTORNEY.
WARD, RICHARD	CHIEF, CIVIL TRIAL SECTION WESTERN REGION.
U.S. Marshals Service—USMS	
DUDLEY, CHARLES C.	DEPUTY DIRECTOR.
AUERBACH, GERALD	GENERAL COUNSEL.
BROWN, SHANNON B.	ASSISTANT DIRECTOR, INFORMATION TECHNOLOGY.
FALLON, WILLIAM T.	ASSISTANT DIRECTOR, TRAINING.
HARLOW, DAVID	ASSISTANT DIRECTOR, INVESTIGATIVE OPERATIONS.
CAULK, CARL	ASSISTANT DIRECTOR FOR JUDICIAL SECURITY.
JONES, SYLVESTER E.	ASSISTANT DIRECTOR, WITNESS SECURITY.
MERTENS, STEVEN M.	ASSOCIATE DIRECTOR, ADMINISTRATION.
MORALES, EBEN	ASSISTANT DIRECTOR, ASSET FORFEITURE.
PROUT, MICHAEL J.	ASSISTANT DIRECTOR, OFFICE OF INSPECTION.
SNELSON, WILLIAM D.	ASSISTANT DIRECTOR, TACTICAL OPERATIONS.
O'BRIEN, CAROL	DEPUTY ASSISTANT DIRECTOR, ACQUISITION AND PROCUREMENT.
DOLAN, EDWARD	SPECIAL ASSISTANT FOR FINANCIAL SYSTEMS.

[FR Doc. 2012–23591 Filed 9–24–12; 8:45 am]
BILLING CODE 4410–NW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Consumer Price Index Housing Survey

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Consumer Price Index Housing Survey,'' 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 October 25, 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–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by consumers for a market basket of consumer goods and services. Each month, BLS data collectors visit or call thousands of retail stores, service establishments, rental units, and doctors' offices all over the United States to obtain information on the prices of the thousands of items used to track and measure price changes in the CPI. The collection of price data from rental units is essential for the timely and accurate calculation of the shelter component of the CPI. The CPI is then widely used as a measure of inflation, indicator of the effectiveness of government economic policy, deflator for other economic series and as a means of adjusting dollar values.

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 1220–0163. The current approval is scheduled to expire on November 30, 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 June 18, 2012 (77 FR 36296).

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 1220–0163. 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–BLS.

Title of Collection: Consumer Price Index Housing Survey.

OMB Control Number: 1220–0163.

Affected Public: Individuals or Households.

Total Estimated Number of Responses: 154,937.

Total Estimated Annual Burden Hours: 14,674.

Total Estimated Annual Other Costs Burden: $0.

Dated: September 17, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–23504 Filed 9–24–12; 8:45 am]
BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,538]

State Journal Register, Camera and Plate Department, Springfield, IL; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated August 24, 2012, a worker requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of State Journal Register, Camera and Plate Department, Springfield, Illinois. The determination was issued on July 26, 2012. The Department's Notice of determination was published in the **Federal Register** on August 9, 2012 (77 FR 47674). The workers' firm is engaged in activities related to the production of a daily newspaper. The subject worker group performs image manipulation for publication.

The initial investigation resulted in a negative determination based on the findings that a significant number or proportion of workers at State Journal Register, Camera and Plate Department, Springfield, Illinois has not been totally or partially separated, or threatened with such separation, and that the criteria of Section 222(e) of the Trade Act, as amended, have not been met.

The request for reconsideration states that the dislocated workers were part of the ''Pre-Press Imaging Department'' of State Journal Register, Springfield, Illinois.

A careful review of the existing record has revealed that the petition was filed

on behalf of ''Camera/Plate-Prepress-Imaging, Ad Srvs. & Market'' workers at State Journal Register, Springfield, Illinois who were affected by the shift of ''advertising ad work'' to a foreign country.

The Department will conduct further investigation to clarify the subject worker group and to determine if workers have met the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 12th day of September 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–23578 Filed 9–24–12; 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 October 5, 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 October 5, 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 19th day of September 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[20 TAA petitions instituted between 9/10/12 and 9/14/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81951	AGI—Shorewood (Workers)	Weaverville, NC	09/10/12	09/06/12
81952	American Airlines (Union)	DFW International Airport, TX.	09/10/12	09/06/12
81953	Franklin Electric Company, Inc. (Company)	Oklahoma City, OK	09/10/12	09/05/12
81954	Medimmune (Workers)	Mountain View, CA	09/10/12	09/05/12
81955	Pocahontas Machine Works, Inc. (State/One-Stop).	Pocahontas, AR	09/10/12	09/06/12
81956	Exide Technologies (Company)	Bristol, TN	09/10/12	09/07/12
81957	Edmund Optics, Inc. (Company)	Pennsburg, PA	09/10/12	09/07/12
81958	Comair (State/One-Stop)	Erlanger, KY	09/10/12	09/07/12
81959	International Union of Operating Engineers Local 37 (State/One-Stop).	Sparrows Point, MD	09/10/12	09/10/12
81960	Verizon (Workers)	Highland Ranch, CO	09/10/12	09/07/12
81961	American Express Company, ''Amex New Accounts Dept.—Fraud Division'' (Workers).	Salt Lake City, UT	09/10/12	09/06/12
81962	Verizon Business (Workers)	Richardson, TX	09/11/12	09/10/12
81963	Eco Energy Solution (State/One-Stop)	Reno, NV	09/12/12	09/07/12
81964	HP Enterprise Services LLC (Workers)	Cupertino, CA	09/12/12	09/11/12
81965	Melco Engraving, Inc. (State/One-Stop)	Rochester Hills, MI	09/13/12	09/04/12
81966	AT&T (State/One-Stop)	Bothell, WA	09/13/12	09/12/12
81967	OMCO Machining Concepts (Union)	Winchester, IN	09/14/12	09/13/12
81968	Verizon Business (State/One-Stop)	Vestavia, AL	09/14/12	09/13/12
81969	Schawk, Inc. (State/One-Stop)	Minneapolis, MN	09/14/12	09/13/12
81970	Anthem Bluecross (State/One-Stop)	Newbury Park, CA	09/14/12	09/06/12

[FR Doc. 2012–23576 Filed 9–24–12; 8:45 am]

BILLING CODE 4510–FN–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting; Notice

DATE AND TIME: The Legal Services Corporation's Board of Directors and its six committees will meet September 30—October 2, 2012. On Sunday, September 30, the first meeting will commence at 1:15 p.m., Eastern Daylight Time (EDT), and each meeting thereafter commencing promptly upon adjournment of the immediately preceding meeting. The exception will be the meetings of the Institutional Advancement Committee and the Audit Committee, which will run concurrently immediately upon conclusion of the meeting of the Operations & Regulations Committee. On Monday, October 1, the meeting of the Promotion & Provision for the Delivery of Legal Services Committee will commence at 3:00 p.m., EDT, followed by the meeting of the

Board of Directors. On Tuesday, October 2, the meeting of the Board of Directors will resume at 8:00 a.m., EDT.

LOCATION: Hilton Durham Hotel, 3800 Hillsborough Road, Durham, North Carolina 27705.

PUBLIC OBSERVATION: Unless otherwise noted herein, the Board and all committee meetings will be open to public observation. Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below but are asked to keep their telephones *muted* to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on *hold.* From time to time, the presiding Chair may solicit comments from the public.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- *Call toll-free number:* 1–866–451–4981;
- *When prompted, enter the following numeric pass code:* 5907707348 (or 2755431953 to access the Audit Committee meeting)
- When connected to the call, please immediately ''MUTE'' your telephone.

Meeting Schedule

	Time *
Sunday, September 30, 2012	
1. Finance Committee	1:15 p.m.
2. Governance & Performance Committee.	
3. Operations & Regulations Committee.	
4. Institutional Advancement Committee**.	
5. Audit Committee**.	
Monday, October 1, 2012	
1. Promotion & Provision for the Delivery of Legal Services Committee.	3 p.m.
2. Board of Directors.	
Tuesday, October 2, 2012	
1. Board of Directors	8 a.m.

STATUS OF MEETING: Open, except as noted below.

Board of Directors—Open, except that, upon a vote of the Board of Directors, a portion of the meeting may be closed to the public to hear briefings by management and LSC's Inspector General, and to consider and act on the General Counsel's report on potential and pending litigation involving LSC.***

Institutional Advancement Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to discuss the LSC honorary support auxiliary and LSC alumni groups, discuss pro bono advice and counsel, discuss pro bono assistance to obtain funds pending establishment of the Development Office, and discuss potential funders for the Pro Bono Innovation/Incubation Fund.

A verbatim written transcript will be made of the closed session of the Board and Institutional Advancement Committee meetings. The transcript of any portions of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), (9) and (10), and the corresponding provisions of the Legal Services Corporation's implementing regulations, 45 CFR 1622.5(e), (g) and (h), will not be available for public inspection. A copy of the General Counsel's Certification that in his opinion the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

September 30, 2012

Finance Committee

1. Approval of agenda
2. Approval of the minutes of the meeting of July 17, 2012
3. Approval of the minutes of the meeting of July 27, 2012
4. Approval of the minutes of the meeting of August 20, 2012
5. Presentation on LSC's Financial Reports for Ten-Month period ending July 31, 2012
   - Presentation by David Richardson
6. Staff report on status of FY 2013 appropriations process
   - Presentation by Carol Bergman
7. Consider and act on *Resolution #2012–0XX,* Temporary Operating Budget for FY 2013
   - Presentation by David Richardson
8. Briefing on lease for 3333 K Street
9. Public comment
10. Consider and act on other business
11. Consider and act on adjournment of meeting

Governance & Performance Review Committee

1. Approval of agenda
2. Approval of minutes of the Committee's meeting of July 27, 2012
3. Staff report on progress in implementing GAO recommendations
4. Report on Public Welfare Foundation grant
   - Presentation by Jim Sandman
5. Consider and act on other business
6. Public comment
7. Consider and act on motion to adjourn meeting

Operations & Regulations Committee

1. Approval of agenda
2. Consider and act on possible revisions to the Corporation's Bylaws for implementation of the Corporation's Continuation of Operations Plan (''COOP'')
3. Consider and act on rulemaking on grant termination procedures, enforcement mechanisms, and suspension procedures
   - Mark Freedman, Senior Assistant General Counsel
   - Matthew Glover, Associate Counsel to the Inspector General
   - Public comment on this rulemaking
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting

Institutional Advancement Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's September 4, 2012 telephonic meeting
3. Public Comment
4. Consider and act on other business

Closed Session

5. Approval of minutes of the Committee's July 27, 2012 closed session meeting
6. Discussion regarding the LSC honorary support auxiliary and LSC alumni groups
7. Discussion regarding pro bono advice and counsel
8. Discussion regarding pro bono assistance to obtain funds pending establishment of the Development Office
9. Discussion of potential funders for the Pro Bono Innovation/Incubation Fund
10. Consider and act on motion to adjourn the meeting

Audit Committee

1. Approval of agenda
2. Approval of minutes of the Committee's July 27, 2012 meeting
3. Consider and act on revised Audit Committee charter
4. Briefing by Office of Inspector General
   - Jeffrey Schanz, Inspector General

* Please note that all times in this notice are in the Eastern Daylight Time.

** The meeting of the Institutional Advancement Committee will run concurrently with the meeting of the Audit Committee.

*** Any portion of the closed session consisting solely of briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552b(a)(2) and (b). *See also* 45 CFR 1622.2 & 1622.3.

5. Public comment
6. Consider and act on other business
7. Consider and act on adjournment of meeting

October 1, 2012

Promotion & Provision for the Delivery of Legal Services Committee

1. Approval of Agenda
2. Approval of Minutes of the Committee's meeting of July 27, 2012
3. Discussion of topics for future Committee meetings
4. Panel Presentation on uses of technology to improve LSC grantee effectiveness and efficiencies
   - Moderator—Janet LaBella, Director, Office of Program Performance
   - Pat Muller, Information Technology Manager, South Carolina Legal Services
   - Eric Mittelstadt, Deputy Director, Utah Legal Services
   - Michael Prince, Information Technology Manager, Legal Aid of NorthWest Texas
   - George Hausen, Executive Director, Legal Aid of North Carolina
5. Public comment
6. Consider and act on other business
7. Consider and act on motion to adjourn the meeting

October 1–2, 2012

Board of Directors

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of Minutes of the Board's meeting of August 31, 2012
4. Chairman's Report
5. Members' Reports
6. President's Report
7. Inspector General's Report
8. Consider and act on the report of the Promotion and Provision for the Delivery of Legal Services Committee
9. Consider and act on the report of the Finance Committee
10. Consider and act on the report of the Audit Committee
11. Consider and act on the report of the Operations and Regulations Committee
12. Consider and act on the report of the Governance and Performance Review Committee
13. Consider and act on the report of the Institutional Advancement Committee
14. Consider and act on the draft Strategic Plan
15. Public comment
16. Consider and act on other business
17. Consider and act on whether to authorize an executive session of the Board to address items listed below, under Closed Session

Closed Session

18. Approval of minutes of the Board's closed session meeting of July 27, 2012
19. Approval of minutes of the Board's closed session telephonic meeting of August 31, 2012
20. Briefing by Management
21. Briefing by the Inspector General
22. Consider and act on General Counsel's report on potential and pending litigation involving LSC
23. Consider and act on motion to adjourn meeting

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

NON-CONFIDENTIAL MEETING MATERIALS: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC Web site, at *http://www.lsc.gov/board-directors/meetings/board-meeting-notices/non-confidential-materials-be-considered-open-session.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: September 20, 2012.

Victor M. Fortuno,

Vice President & General Counsel.

[FR Doc. 2012–23667 Filed 9–21–12; 4:15 pm]

BILLING CODE 7050–01–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 12–10]

Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in Fiscal Year 2013

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: This report to Congress is provided in accordance with Section 608(b) of the Millennium Challenge Act of 2003, as amended, 22 U.S.C. 7707(b) (the ''Act'').

Dated: September 19, 2012.

Melvin F. Williams, Jr.,

VP/General Counsel and Corporate Secretary, Millennium Challenge Corporation.

Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in Fiscal Year 2013

Summary

This report to Congress is provided in accordance with section 608(b) of the Millennium Challenge Act of 2003, as amended, 22 U.S.C. 7707(b) (the Act).

The Act authorizes the provision of Millennium Challenge Account (MCA) assistance to countries that enter into a Millennium Challenge Compact with the United States to support policies and programs that advance the prospects of such countries achieving lasting economic growth and poverty reduction. The Act requires the Millennium Challenge Corporation (MCC) to take a number of steps in determining what countries will be selected as eligible for MCA compact assistance for fiscal year (FY) 2013 based on the countries' demonstrated commitment to just and democratic governance, economic freedom, and investing in their people, as well as MCC's opportunity to reduce poverty and generate economic growth in the country. These steps include the submission of reports to the congressional committees specified in the Act and publication of notices in the **Federal Register** that identify:

The countries that are ''candidate countries'' for MCA assistance for FY 2013 based on per capita income levels and eligibility to receive assistance under U.S. law. This report identifies countries that would be candidate countries but for specified legal prohibitions on assistance (section 608(a) of the Act; 22 U.S.C. 7707(a));

The criteria and methodology that MCC's Board of Directors (Board) will use to measure and evaluate policy performance of the candidate countries consistent with the requirements of section 607 of the Act (22 U.S.C. 7706) in order to determine ''eligible countries'' from among the ''candidate countries'' (section 608(b) of the Act); and

The list of countries determined by the Board to be ''eligible countries'' for FY 2013, with justification for eligibility determination and selection for compact

negotiation, including those eligible countries that the Board will seek to enter into compacts (section 608(d) of the Act).

This report sets out the criteria and methodology to be applied in determining eligibility for FY 2013 MCA assistance.

Criteria and Methodology for FY 2013

The Board will base its selection of eligible countries on several factors, including:

The country's overall performance in the three broad policy categories of Ruling Justly, Encouraging Economic Freedom, and Investing in People;

MCC's opportunity to reduce poverty and generate economic growth in a country;

Performance during implementation of a prior compact (if selecting a country to be eligible for a subsequent compact); and

The availability of MCC funds.

Section 607 of the Act requires that the Board's determination of eligibility be based ''to the maximum extent possible, upon objective and quantifiable indicators of a country's demonstrated commitment'' to the criteria set out in the Act.

For the purpose of assessing countries' policy performance, MCC strives to ensure countries are consistently and appropriately compared against their income peers. Since its founding, MCC has relied on the historical ceiling for eligibility as set by the World Bank's International Development Association (IDA) to divide the pool of candidate countries into two groups for the purpose of comparative analysis on the policy performance indicators (described in the section immediately below). A Scorecard low income country (LIC) is defined as a country with a per capita income on or below IDA's historical ceiling for eligibility ($1,945 for FY 2013) and will continue to be compared against other Scorecard LICs. A Scorecard lower middle income country (LMIC) is defined as a country with a per capita income above the IDA's historical ceiling for eligibility, but below the World Bank's lower middle income country threshold ($1,946–$4,035 for FY13) and will continue to be compared against other Scorecard LMICs.[1] This will ensure poorer countries are not disadvantaged by competing against more wealthy countries and provide relative stability and consistency in countries' assessments from previous years.

Indicators

In FY 2013 the Board will use 20 indicators to assess the policy performance of individual countries. These indicators are grouped under the three policy categories listed in Table 1. A description of each indicator, including definitions and sources, can be found in Annex A.

Table 1

(1) Ruling Justly: Political Rights, Civil Liberties, Freedom of Information, Government Effectiveness, Rule of Law, Control of Corruption. (Sources: Freedom House, FRINGE Special, Open Net Initiative, World Bank/Brookings)

(2) Encouraging Economic Freedom: Fiscal Policy, Inflation, Regulatory Quality, Trade Policy, Gender in the Economy, Land Rights and Access, Access to Credit, Business Start-Up (Sources: IMF, World Bank/Brookings, Heritage Foundation, IFC, International Fund for Agricultural Development)

(3) Investing in People: Public Expenditure on Health, Total Public Expenditure on Primary Education, Natural Resource Protection, Immunization Rates, Girls' Education (Primary Completion Rate for Scorecard LICs, Secondary Education Enrollment for Scorecard LMICs), Child Health. (Sources: World Health Organization, UNICEF, UNESCO, National Sources, CIESIN/YCLEP)

To determine eligibility for a particular candidate country, the Board will consider whether a country performs above the median or absolute threshold on at least half of the indicators; above the median on the Control of Corruption indicator; and above the absolute threshold on either the Civil Liberties or Political Rights indicators. Indicators with absolute thresholds in lieu of a median include: (i) Inflation, on which a country's inflation rate must be under a fixed ceiling of 15 percent; (ii) Immunization Rates (Scorecard LMICs only), on which a Scorecard LMIC must have immunization coverage above 90 percent; (iii) Political Rights, on which countries must score above 17; and (iv) Civil Liberties, on which countries must score above 25. The Board will also consider whether a country performs substantially worse in any policy category than they do on the overall scorecard, and countries must meet a minimum standard of passing one indicator in each category.

Considerations of Prior Compact Implementation

Countries that have completed their compact, or are within 18 months of compact completion, may be considered for eligibility for a subsequent compact. To determine eligibility for subsequent compacts, the Board will consider the country's policy performance using the methodology and criteria described above, as well as the country's track record of performance implementing its prior compact.

To assess implementation of a prior compact, the Board will consider the nature of the country's partnership with MCC; the degree to which the country has demonstrated a commitment and capacity to achieve program results; and the degree to which the country has implemented the compact in accordance with MCC's core policies and standards.

In FY 2013, the Board will assess countries on their performance on the prior compact through supplemental information covering the categories and issues shown in Table 2. A more detailed list of compact performance considerations and MCC reporting sources is provided in Annex B.

Table 2

(1) Country Partnership: Political Will, Management Capacity (Sources: Quarterly reporting, Survey of MCC staff)

(2) Program Results: Financial Results, Project Results, Target Achievements (Sources: Indicator tracking tables, Quarterly reporting, Survey of MCC staff, Impact Evaluations)

(3) Adherence to Standards: Commitment to MCC Operational Guidelines and Policies, Audit Findings (Sources: Quarterly reporting, GAO Audits, OIG Audits, Survey of MCC staff)

Other Considerations for the Board

Supplementary Information

Consistent with the Act, the indicators will be the predominant basis for determining which countries will be eligible for MCA assistance. However, the Board may exercise discretion when evaluating performance on the indicators and determining a final list of eligible countries. Where necessary, the Board also may take into account other

[1] In December 2011, MCC's FY 2012 appropriations bill, enacted as part of the Consolidated Appropriations Act, 2012 (Pub. L. 112–74) (FY 2012 Appropriations Act), included language at MCC's request to alter the way the agency defines LICs and LMICs for the purposes of candidacy and funding. MCC implemented this change through the FY 2013 Candidate Country Report, approved by the board on August 21, 2012. This change affects how MCC may fund countries selected as eligible and brought desired stability to the funding stream. To protect against unnecessary instability or income bias to the selection system, for Scorecard purposes, the agency will continue to use the historical IDA ceiling as described above.

quantitative and qualitative information (supplemental information) to determine whether a country performed satisfactorily in relation to its peers in a given income category. There are elements of the criteria set out in the Act for which there is either limited quantitative information, or no well-developed performance indicator. Until such data and/or indicators are developed, the Board may rely on additional data and qualitative information to assess policy performance. For example, the State Department Human Rights Report contains qualitative information to make an assessment on a variety of criteria outlined by Congress, such as the rights of people with disabilities, the treatment of women and children, workers' rights, and human rights. Similarly, MCC may consult a variety of third party sources to better understand the domestic potential for private sector led investment and growth.

The Board may also consider whether supplemental information should be considered to make up for data gaps, lags, trends, or other weaknesses in particular indicators. As additional information in the area of corruption, the Board may consider how a country is evaluated by supplemental sources like Transparency International's Corruption Perceptions Index, the Global Integrity Report, and the Extractive Industry Transparency Initiative, among others, as well as on the defined indicator.

Approach to Income Classification Transition

Each year a number of countries shift income groups, and some countries formerly classified as Scorecard LIC suddenly face new, higher performance standards in the Scorecard LMIC group. As a result, they typically perform worse relative to other Scorecard LMICs, than they did compared to other Scorecard LICs, even if in absolute terms they maintained or improved their performance in the previous year. To address the challenges associated with sudden changes in performance standards for these countries, MCC has adopted an approach to income category transition whereby the Board may consider the indicator performance of countries that transitioned from the Scorecard LIC to the Scorecard LMIC country category both relative to their Scorecard LMIC peers as well as in comparison to the current fiscal year's Scorecard LIC pool for a period of three years.

Continuing Policy Performance

Partner countries that are developing or implementing a compact are expected to seek to maintain and improve policy performance. MCC recognizes that partner countries may not meet the eligibility criteria from time to time due to a number of factors, such as: (i) Changes in the peer group median; (ii) transition into a new income category (*e.g.,* from Scorecard LIC to Scorecard LMIC categories); (iii) numerical declines in scores that are within the statistical margin of error; (iv) slight declines in policy performance; (v) revisions or corrections of data; (vi) introduction of new sub-data sources; or (vii) changes in the indicators used to measure performance. None of these factors alone signifies a significant policy reversal or warrants suspension or termination of eligibility and/or assistance.

However, countries that demonstrate a significant policy reversal may be issued a warning or face suspension or termination of eligibility and/or assistance. According to the Act, ''[a]fter consultation with the Board, the Chief Executive Officer may suspend or terminate assistance in whole or in part for a country or entity * * * if * * * the country or entity has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of the country or entity * * *.'' Consistent with the Act and MCC's Policy on Suspension and Termination, this pattern of actions does not need to be captured in the indicators for MCC to take action.

Relationship to Legislative Criteria

Within each policy category, the Act sets out a number of specific selection criteria. As indicated in Table 1, a set of objective and quantifiable policy indicators is used to determine eligibility for MCA assistance and to measure the relative performance by candidate countries against these criteria. The Board's approach to determining eligibility ensures that performance against each of these criteria is assessed by at least one of the objective indicators. Most are addressed by multiple indicators. The specific indicators appear in parentheses next to the corresponding criterion set out in the Act.

Section 607(b)(1): Just and democratic governance, including a demonstrated commitment to—

Promote political pluralism, equality and the rule of law (Political Rights, Civil Liberties, Rule of Law, and Gender in the Economy);

Respect human and civil rights, including the rights of people with disabilities (Political Rights, Civil Liberties, and Freedom of Information);

Protect private property rights (Civil Liberties, Regulatory Quality, Rule of Law, and Land Rights and Access);

Encourage transparency and accountability of government (Political Rights, Civil Liberties, Freedom of Information, Control of Corruption, Rule of Law, and Government Effectiveness); and

Combat corruption (Political Rights, Civil Liberties, Rule of Law, Freedom of Information, and Control of Corruption);

Section 607(b)(2): Economic freedom, including a demonstrated commitment to economic policies that—

Encourage citizens and firms to participate in global trade and international capital markets (Fiscal Policy, Inflation, Trade Policy, and Regulatory Quality);

Promote private sector growth (Inflation, Business Start-Up, Fiscal Policy, Land Rights and Access, Access to Credit, Gender in the Economy, and Regulatory Quality);

Strengthen market forces in the economy (Fiscal Policy, Inflation, Trade Policy, Business Start-Up, Land Rights and Access, Access to Credit, and Regulatory Quality); and

Respect worker rights, including the right to form labor unions (Civil Liberties and Gender in the Economy); and

Section 607(b)(3): Investments in the people of such country, particularly women and children, including programs that—

Promote broad-based primary education (Girls' Primary Completion Rate, Girls' Secondary Education Enrollment Rate, and Total Public Expenditure on Primary Education);

Strengthen and build capacity to provide quality public health and reduce child mortality (Immunization Rates, Public Expenditure on Health, and Child Health); and

Promote the protection of biodiversity and the transparent and sustainable management and use of natural resources (Natural Resource Protection).

Annex A

Indicator Definitions

The following indicators will be used to measure candidate countries' demonstrated commitment to the criteria found in section 607(b) of the Act. The indicators are intended to assess the degree to which the political and economic conditions in a country serve to promote broad-based sustainable economic growth and reduction of poverty and thus provide a sound environment for the use of MCA

funds. The indicators are not goals in themselves; rather, they are proxy measures of policies that are linked to broad-based sustainable economic growth. The indicators were selected based on (i) their relationship to economic growth and poverty reduction; (ii) the number of countries they cover; (iii) transparency and availability; and (iv) relative soundness and objectivity. Where possible, the indicators are developed by independent sources. Listed below is a brief summary of the indicators (a detailed rationale for the adoption of these indicators can be found in the Public Guide to the Indicators on MCC's public Web site at *www.mcc.gov*).

Ruling Justly

Political Rights: Independent experts rate countries on the prevalence of free and fair elections of officials with real power; the ability of citizens to form political parties that may compete fairly in elections; freedom from domination by the military, foreign powers, totalitarian parties, religious hierarchies and economic oligarchies; and the political rights of minority groups, among other things. *Source:* Freedom House.

Civil Liberties: Independent experts rate countries on freedom of expression; association and organizational rights; rule of law and human rights; and personal autonomy and economic rights, among other things. *Source:* Freedom House.

Freedom of Information: Measures the legal and practical steps taken by a government to enable or allow information to move freely through society; this includes measures of press freedom, national freedom of information laws, and the extent to which a country is filtering internet content or tools. *Source:* Freedom House/FRINGE Special/Open Net Initiative.

Government Effectiveness: An index of surveys and expert assessments that rate countries on the quality of public service provision; civil servants' competency and independence from political pressures; and the government's ability to plan and implement sound policies, among other things. *Source:* Worldwide Governance Indicators (World Bank/Brookings).

Rule of Law: An index of surveys and expert assessments that rate countries on the extent to which the public has confidence in and abides by the rules of society; the incidence and impact of violent and nonviolent crime; the effectiveness, independence, and predictability of the judiciary; the protection of property rights; and the enforceability of contracts, among other things. *Source:* Worldwide Governance Indicators (World Bank/Brookings).

Control of Corruption: An index of surveys and expert assessments that rate countries on: ''grand corruption'' in the political arena; the frequency of petty corruption; the effects of corruption on the business environment; and the tendency of elites to engage in ''state capture,'' among other things. *Source:* Worldwide Governance Indicators (World Bank/Brookings).

Encouraging Economic Freedom

Fiscal Policy: The overall budget balance divided by GDP, averaged over a three-year period. The data for this measure comes primarily from IMF country reports or, where public IMF data are outdated or unavailable, are provided directly by the recipient government with input from U.S. missions in host countries. All data are cross-checked with the IMF's World Economic Outlook database to try to ensure consistency across countries and made publicly available. *Source:* International Monetary Fund Country Reports, National Governments, and the International Monetary Fund's World Economic Outlook Database.

Inflation: The most recent average annual change in consumer prices. Source: The International Monetary Fund's World Economic Outlook Database.

Regulatory Quality: An index of surveys and expert assessments that rate countries on the burden of regulations on business; price controls; the government's role in the economy; and foreign investment regulation, among other areas. Source: Worldwide Governance Indicators (World Bank/Brookings).

Trade Policy: A measure of a country's openness to international trade based on weighted average tariff rates and non-tariff barriers to trade. *Source:* The Heritage Foundation.

Gender in the Economy: An index that measures the extent to which laws provide men and women equal capacity to generate income or participate in the economy, including the capacity to access institutions, get a job, register a business, sign a contract, open a bank account, choose where to live, and to travel freely. *Source:* International Finance Corporation.

Land Rights and Access: An index that rates countries on the extent to which the institutional, legal, and market framework provide secure land tenure and equitable access to land in rural areas and the time and cost of property registration in urban and peri-urban areas. *Source:* The International Fund for Agricultural Development and the International Finance Corporation.

Access to Credit: An index that rates countries on rules and practices affecting the coverage, scope, and accessibility of credit information available through either a public credit registry or a private credit bureau; as well as legal rights in collateral laws and bankruptcy laws. *Source:* International Finance Corporation.

Business Start-Up: An index that rates countries on the time and cost of complying with all procedures officially required for an entrepreneur to start up and formally operate an industrial or commercial business. *Source:* International Finance Corporation.

Investing in People

Public Expenditure on Health: Total expenditures on health by government at all levels divided by GDP. *Source:* The World Health Organization.

Total Public Expenditure on Primary Education: Total expenditures on primary education by government at all levels divided by GDP. *Source:* The United Nations Educational, Scientific and Cultural Organization and National Governments.

Natural Resource Protection: Assesses whether countries are protecting up to 10 percent of all their biomes (*e.g.,* deserts, tropical rainforests, grasslands, savannas and tundra). *Source:* The Center for International Earth Science Information Network and the Yale Center for Environmental Law and Policy.

Immunization Rates: The average of DPT3 and measles immunization coverage rates for the most recent year available. *Source:* The World Health Organization and the United Nations Children's Fund.

Girls Education

Girls' Primary Completion Rate: The number of female students enrolled in the last grade of primary education minus repeaters divided by the population in the relevant age cohort (gross intake ratio in the last grade of primary). Scorecard LICs are assessed on this indicator. *Source:* United Nations Educational, Scientific and Cultural Organization.

Girls Secondary Enrollment Education: The number of female pupils enrolled in lower secondary school, regardless of age, expressed as a percentage of the population of females in the theoretical age group for lower secondary education. Scorecard LMICs will be assessed on this indicator instead of Girls Primary Completion Rates. *Source:* United Nations

Educational, Scientific and Cultural Organization.

Child Health: An index made up of three indicators: (i) Access to improved water, (ii) access to improved sanitation, and (iii) child (ages 1–4) mortality. Source: The Center for International Earth Science Information Network and the Yale Center for Environmental Law and Policy.

Annex B

Subsequent Compact Considerations

MCC reporting and data in the following chart are used to assess compact performance of MCC partners nearing the end of compact implementation. Some reporting used for assessment may contain sensitive information and adversely affect implementation or MCC-partner country relations. This information is for MCC's internal use and is not made public. However, key implementation information is summarized in compact status and results reports that are published quarterly on MCC's Web site under MCC country programs (*www.mcc.gov/pages/countries*) or monitoring and evaluation (*www.mcc.gov/pages/activities/activity/monitoring-and-evaluation*) Web pages.

(1) *Country Partnership:* Includes Political Will (Status of major conditions precedent, Program oversight/implementation—project restructures and partner response to MCA capacity issues, Political independence of MCA) and Management Capacity (Project management capacity, Project performance, Level of MCC intervention/oversight, Relative level of resources required).

MCC Reporting/Data Source: Quarterly implementation reporting, Quarterly results reporting, Survey of MCC staff.

Published Documents: Quarterly results published as ''Table of Key Performance Indicators'' (available by country at *http://1.usa.gov/QoduNl*) Survey questions to be posted at *http://1.usa.gov/PE0xCX.*

(2) *Program Results:* Includes Financial Results (Commitments, Disbursements), Project Results (Output, outcome, objective targets; MCA commitment to 'focus on results;' MCA cooperation on impact evaluation; Percent complete for process/outputs; Relevant outcome data; Details behind target delays), and Target Achievements.

MCC Reporting/Data Source: Indicator tracking tables, Quarterly financial reporting, Quarterly implementation reporting, Quarterly results reporting, Survey of MCC staff, Impact evaluations.

Published Documents: Monitoring and Evaluation Plans (available by country at *http://1.usa.gov/QoduNl*), Quarterly Status Reports (available by country at *http://1.usa.gov/NfEbcI*), Quarterly results published as ''Table of Key Performance Indicators'' (available by country at *http://1.usa.gov/QoduNl*), Survey questions to be posted at *http://1.usa.gov/PE0xCX.*

(3) *Adherence to Standards:* Procurement, Environmental and social, Fraud and corruption, Program closure, Monitoring and evaluation, All other legal provisions.

MCC Reporting/Data Source: Audits (GAO and OIG), Quarterly implementation reporting, Survey of MCC staff.

Published Documents: Published OIG and GAO Audits, Survey questions to be posted at *http://1.usa.gov/PE0xCX.*

(4) *Country Specific:* Sustainability, Implementation Entity, MCC Investments.

MCC Reporting/Data Source: Quarterly implementation reporting, Quarterly results reporting, Survey of MCC staff.

Published Documents: Quarterly results published as ''Table of Key Performance Indicators'' (available by country at *http://1.usa.gov/QoduNl*), Survey questions to be posted: *http://1.usa.gov/PE0xCX.*

[FR Doc. 2012–23534 Filed 9–24–12; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–073]

NASA Advisory Council; Aeronautics Committee; Unmanned Aircraft Systems Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Unmanned Aircraft Systems (UAS) Subcommittee of the Aeronautics Committee of the NASA Advisory Council (NAC). The meeting will be held for the purpose of soliciting, from the aeronautics community and other persons, research and technical information relevant to program planning.

DATES: Tuesday, October 16, 2012, 8:00 a.m.–4:30 p.m., Local Time.

ADDRESSES: National Aeronautics and Space Administration Headquarters, Room 6B42, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda L. Mulac, Executive Secretary for the UAS Subcommittee of the Aeronautics Committee, National Aeronautics and Space Administration Headquarters, Washington, DC 20546, (202) 358–1578, or *brenda.l.mulac@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. Any person interested in participating in the meeting by WebEx and telephone should contact Ms. Brenda L. Mulac at (202) 358–1578 for the Web link, toll-free number and passcode. The agenda for the meeting includes the following topics:

- Discussion on the Integration of UAS into NextGen
- Overview of the Airspace Systems Program
- Overview of Science Mission Directorate Use of UAS

It is imperative that these meetings be held on this date to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to NASA Security before access to NASA Headquarters. U.S. Citizens will need to show a valid, officially-issued picture identification such as driver's license to enter the NASA Headquarters building (West Lobby—Visitor Control Center) and must state that they are attending the NAC UAS Subcommittee meeting in room 6B42 before receiving an access badge. Permanent Residents will need to show residency status (valid green card) and a valid, officially issued picture identification such as a driver's license and must state that they are attending the NAC UAS Subcommittee meeting in room 6B42 before receiving an access badge. U.S. citizens and Permanent Residents are requested to submit their name and affiliation 3 working days prior to the meeting to Ms. Brenda Mulac via fax at (202) 358–3602. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 8 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee, and home address

to Ms. Brenda L. Mulac, via fax at (202) 358–3602.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–23552 Filed 9–24–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Wednesday, October 10, 2012.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The ONE item is open to the public.

MATTER TO BE CONSIDERED: 8439 Aircraft Accident Report—Crash During Experimental Test Flight, Gulfstream Aerospace Corporation GVI (G650), N652GD, Roswell, New Mexico, April 2, 2011.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 by Friday, September 21, 2012.

The public may view the meeting via a live or archived Webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates including weather-related cancellations are also available at *www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing, (202) 314–6403 or by email at *bingc@ntsb.gov.*

FOR MEDIA INFORMATION CONTACT: Eric Weiss (202) 314–6143 or by email at *eric.weiss@ntsb.gov.*

Dated: September 21, 2012.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2012–23729 Filed 9–21–12; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 03032042; NRC–2012–0219]

License Amendment Request for the U.S. Department of the Army, National Ground Intelligence Center, Charlottesville, VA

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant Impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering the issuance of a license renewal and amendment to Byproduct Materials License No. 45–25134–01. This license is held by the U.S. Department of the Army, National Ground Intelligence Center (the licensee), for activities conducted at the facilities located in Charlottesville, Virginia; Aberdeen Proving Ground, Maryland; and temporary jobsites anywhere in the United States.

ADDRESSES: Please refer to Docket ID NRC–2012–0219 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly-available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0219. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 2100 Renaissance Blvd., Suite 100, King of Prussia, Pennsylvania 19406. Telephone: 610–337–5366; fax number: 610–337–5269; email: *Dennis.Lawyer@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

As part of its license renewal, the licensee has requested an exemption from the requirement in 10 CFR 30.32(g) to list sealed sources by their manufacturer and model number as registered under the provisions of section 10 CFR 32.210 of Title 10, Code of Federal Regulations (10 CFR). The licensee requested this exemption in a letter dated October 19, 2011. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements in 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The license renewal and amendment, addressing the approval of the exemption request, will be issued to the licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would renew License No. 45–25134–01 and grant a license amendment, approving of the licensee's request for exemption dated, October 19, 2011. License No. 45–25134–01 was issued on February 25, 1991, pursuant to 10 CFR Parts 30, 40, and 70, and has been amended periodically since that time. This license authorizes the licensee to receive, store, use and transfer specified radioactive materials incident to research and development as defined in 10 CFR 30.4. On June 20, 2011, the licensee submitted its renewal application for License No. 45–25134–01. In a letter dated October 19, 2011, submitted in response to an inquiry from the NRC, the licensee requested an exemption from the requirement in 10 CFR 30.32(g) to list sealed sources by their manufacturer and model number as registered under the provisions of 10 CFR 32.210. In requesting this exemption, the licensee states that the purpose of possessing the sealed sources is to ''remove and store devices of foreign manufacture for further testing and evaluation.'' The licensee receives material in the form of painted disks, sealed tubes, sealed calibration sources, plated foils, and other previously manufactured military and civilian

commodities primarily of foreign origin. Typically, the licensee receives two or less sources per year. These sources normally consist of less than one curie of tritium and less than one millicurie of radium 226 per year. The material is disposed unless it is integral to the functioning of the obtained system. The research and development performed involves testing for functional and operational characteristics. No fabrication using loose or unsealed materials is conducted. No willful destructive testing of items containing radioactive materials will be conducted under this license. If destructive testing is requested it will be conducted by other agencies under separate NRC license. The licensee does not know in advance what sources or devices may be received at its facility and that, in the interest of national security and the U.S. Department of Defense policy, the sources or origin of foreign equipment should not be revealed. The licensee's policy requires immediate survey of all foreign items for radioactive material and coordination with disposal organizations if radioactive contamination is found.

Need for the Proposed Action

The licensee receives and takes possession of sealed sources and devices which have not been registered with the NRC under 10 CFR 32.210 or with an Agreement State. As these sources and devices are from foreign manufacturers, are not obtained for commercial purposes, and will not be subject to registration, the licensee would not be able to possess these sources as sealed sources without this exemption.

Technical Analysis of the Proposed Action

Paragraph 10 CFR 30.11(a) states that the Commission may grant such exemptions from the requirements of the regulations as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest. The NRC staff has analyzed the licensee's request to be authorized to receive and take possession of sealed sources and devices which have not been registered with the NRC under 10 CFR 32.210 or with an Agreement State. The NRC staff has determined that the licensee has established and implemented training requirements for issuance of a Type A specific license of broad scope as specified in 10 CFR Part 33. This licensee has sufficient training to handle these sources and devices. Furthermore, NRC inspections have evaluated the licensee's performance and determined that the licensee has safely handled these unregistered sources for many years. Prior to this renewal, the license did not require the licensee to specify registered manufacturers and models. Accordingly, the NRC staff has concluded that granting this exemption is authorized by law, will not endanger life or property or the common defense and security, and is in the public interest.

Environmental Impacts of the Proposed Action

The proposed action is largely administrative in nature. Approving this exemption will have a small environmental impact. Typically, the licensee receives two or less sources per year. These sources normally consist of less than one curie of tritium and less than one millicurie of radium 226 per year. This amount would ultimately be disposed at the same rate.

Environmental Impacts of the Alternative to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Additionally, denying the exemption request would result in no change in current environmental impacts. If the exemption request was denied and the amendment was not granted the licensee would need to request an amendment to authorize possession of the material in ''any'' form. This would authorize the licensee to possess radioactive materials regardless of its form. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action will not significantly impact the quality of the human environment. The NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license renewal and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

Application for License Renewal dated, June 20, 2011 [ML12090A516]

Request for Exemption, letter dated, October 19, 2011 [ML112940589]

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region I, 2100 Renaissance Blvd., Suite 100, King of Prussia, PA, this September 10th, 2012.

For the Nuclear Regulatory Commission.

Judith Joustra,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. 2012–23558 Filed 9–24–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0002]

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of September 24, October 1, 8, 15, 22, 29, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of September 24, 2012

Tuesday, September 25, 2012

9:25 a.m. Affirmation Session (Public Meeting) (Tentative)

a. *Virginia Electric and Power Company d/b/a Dominion Virginia Power and Old Dominion Electric Cooperative* (North Anna Power Station, Unit 3); Blue Ridge Environmental Defense League's (BREDL) Petition for Review of CLI–12–14 (Tentative).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

9:30 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting) (Contact: Donna Williams, 301–415–1322).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of October 1, 2012—Tentative

Tuesday, October 2, 2012

9:30 a.m. Strategic Programmatic Overview of the Nuclear Materials Users and Decommissioning and Low-Level Waste Business Lines (Public Meeting) (Contact: Kimyata Morgan Butler, 301–415–0733).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of October 8, 2012—Tentative

There are no meetings scheduled for the week of October 8, 2012.

Week of October 15, 2012—Tentative

There are no meetings scheduled for the week of October 15, 2012.

Week of October 22, 2012—Tentative

Tuesday, October 23, 2012

9:30 a.m. Strategic Programmatic Overview of the Spent Fuel Storage and Transportation and Fuel Facilities Business Lines (Public Meeting) (Contact: Kevin Mattern, 301–492–3221).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of October 29, 2012—Tentative

Tuesday, October 30, 2012

9:30 a.m. Briefing on Fort Calhoun (Public Meeting) (Contact: Michael Hay, 817–200–1527).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by email at *william.dosch@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: September 20, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–23665 Filed 9–21–12; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0065]

Preoperational Testing of Instrument and Control Air Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing Revision 1 to Regulatory Guide (RG) 1.68.3, ''Preoperational Testing of Instrument and Control Air Systems.'' This regulatory guide is being revised to address new issues that have been raised since RG 1.68.3 was first issued. These include vibration testing of instrument and control air systems (ICAS) to meet seismic requirement, ICAS air-dryer testing to meet dew point design requirements, ICAS accumulator check valves and solenoid valves operating and testing experience, an update to ISA S7.3 for acceptable industry standards for oil, water and particle matter in ICAS.

ADDRESSES: Please refer to Docket ID NRC–2012–0065 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–065. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 1 of Regulatory Guide 1.68.3, is available in ADAMS under Accession No. ML12160A047. The regulatory analysis may be found in ADAMS under Accession No. ML12160A049.
- *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.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Kurt Cozens, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7448; email: *Kurt.Cozens@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the

staff needs in its review of applications for permits and licenses.

Revision 1 of RG1.68.3 was issued with a temporary identification as Draft Regulatory Guide, DG–1268. This guide describes methods and procedures the staff of the NRC considers acceptable to implement preoperational testing of the instrument and control air systems (ICAS) in a commercial nuclear power plant. Successful demonstration of the operability of the ICAS is one of the items required by Appendix A, ''General Design Criteria for Nuclear Power Plants,'' in part 50 of Title 10 of the Code of Federal Regulations (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.'' This guide also describes the methods that the NRC staff finds acceptable for the initial test program for ICAS systems, structures, and components (SSCs) in accordance with the regulations in 10 CFR Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' Subpart B, ''Standard Design Certifications,'' and Subpart C, ''Combined Licenses.''

II. Further Information

DG–1268, was published in the **Federal Register** on March 16, 2012 (77 FN 15813), for a 60-day public comment period. The public comment period closed on May 18, 2012. No public comments on DG–1268 were received; therefore no content changes were made during its conversion to a regulatory guide.

III. Backfitting and Issue Finality

Issuance of this final regulatory guide does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of this regulatory guide, the NRC has no current intention to impose this regulatory guide on holders of current operating licenses or combined licenses.

This regulatory guide may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for operating licenses and combined licenses submitted after the issuance of the regulatory guide. Such action does not constitute backfitting as defined in 10 CRF 50.109(a)(1) or is otherwise inconsistent with the applicable issue finality provision in 10 CFR Part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in Part 52.

Dated at Rockville, Maryland, this 17th day of September, 2012.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2012–23560 Filed 9–24–12; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from July 1, 2012, to July 31, 2012.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Executive Resources and Employee Development, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/*. OPM also publishes annually a consolidated listing of all Schedule A, B and C appointing authorities current as of June 30 as a notice in the **Federal Register**.

Schedule A

Schedule A authorities to report during July 2012.

75. Woodrow Wilson International Center for Scholars (Sch. A, 213.3175)

(a) One Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, one Environmental Change & Security Studies Program Administrator, one United States Studies Program Administrator, two Social Science Program Administrators, one Middle East Studies Program Administrator, one African Studies Program Administrator and one Global Sustainability and Resilience Program Administrator.

The following correction was made under Schedule A.

11. Department of Homeland Security (Sch. A, 213.3211)

(e) Papago Indian Agency—Not to exceed 25 positions of Immigration and Customs Enforcement (ICE) Tactical Officers (Shadow Wolves) in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood. (Formerly 213.3105(b)(9))

Schedule B

Schedule B authorities to report during July 2012.

11. Department of Homeland Security (Sch. B, 213.3211)

(b) Secret Service—Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed:

(1) A total of 4 years; or

(2) 120 days following completion of the service required for conversion under Executive Order 11203. (Formerly 213.3205(d)).

Schedule C

Agency name	Organization name	Position title	Authorization No.	Effective date
Department of Agriculture	Farm Service Agency	State Executive Director	DA120089	7/3/2012
	Office of Under Secretary for Natural Resources and Environment.	Staff Assistant	DA120091	7/6/2012
	Office of the Assistant Secretary for Congressional Relations.	Special Assistant	DA120092	7/6/2012
Department of Commerce	Office of the Chief of Staff	Director of Advance	DC120134	7/3/2012
	Office of Under Secretary	Deputy Chief of Staff	DC120129	7/10/2012

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Chief Financial Officer and Assistant Secretary for Administration.	Senior Director for Performance and Business Process Improvement.	DC120136	7/10/2012
	Office of the Director	Associate Director for Legislative, Education and Intergovernmental Affairs.	DC120137	7/10/2012
	Assistant Secretary for Market Access and Compliance.	Senior Advisor	DC120139	7/24/2012
	Advocacy Center	Special Assistant	DC120141	7/24/2012
	Office of Public Affairs	Press Secretary	DC120146	7/25/2012
Council on Environmental Quality	Council on Environmental Quality	Special Assistant (Communications).	EQ120005	7/3/2012
	Council on Environmental Quality	Special Assistant Public Engagement.	EQ120006	7/6/2012
Department of Defense	Washington Headquarters Services	Defense Fellow	DD120086	7/3/2012
	Washington Headquarters Services	Defense Fellow	DD120089	7/3/2012
	Washington Headquarters Services	Defense Fellow	DD120090	7/3/2012
	Washington Headquarters Services	Defense Fellow	DD120091	7/3/2012
	Washington Headquarters Services	Defense Fellow	DD120092	7/3/2012
	Washington Headquarters Services	Defense Fellow	DD120096	7/12/2012
Department of Education	Office of Legislation and Congressional Affairs.	Confidential Assistant	DB120080	7/17/2012
	Office of the Secretary	Confidential Assistant	DB120069	7/19/2012
	Office of the Secretary	Special Assistant	DB120077	7/19/2012
	Office of the Secretary	Confidential Assistant	DB120082	7/30/2012
Department of Energy	Assistant Secretary for Energy Efficiency and Renewable Energy.	Special Advisor	DE120113	7/6/2012
	Office of Management	Special Assistant	DE120115	7/19/2012
	Office of the Secretary	Special Assistant	DE120119	7/20/2012
	Office of Environmental Management.	Special Assistant	DE120122	7/24/2012
Export-Import Bank	Office of Communications	Speechwriter	EB120004	7/6/2012
General Services Administration	Office of the Administrator	Press Secretary	GS120023	7/12/2012
Department of Health and Human Services.	Office of Intergovernmental and External Affairs.	Regional Director, Atlanta, Georgia, Region IV.	DH120122	7/24/2012
Department of Homeland Security	U.S. Customs and Border Protection.	Senior Advisor for Strategic Communications.	DM120145	7/10/2012
	Office of the Assistant Secretary for Public Affairs.	Public Affairs and Strategic Communications Assistant.	DM120151	7/30/2012
	Office of the Under Secretary for National Protection and Programs Directorate.	Special Assistant	DM120155	7/30/2012
Department of Justice	Office of the Attorney General	Special Assistant	DJ120079	7/2/2012
Department of Labor	Employment and Training Administration.	Senior Policy Advisor	DL120070	7/10/2012
	Office of the Secretary	Special Assistant	DL120072	7/25/2012
National Aeronautics and Space Administration.	Chief of Staff	Special Assistant	NN120061	7/12/2012
Office of Management and Budget	National Security Programs	Confidential Assistant	BO120030	7/6/2012
Office of National Drug Control Policy.	Office of Intergovernmental Public Liaison.	Public Engagement Specialist	QQ120004	7/20/2012
Securities and Exchange Commission.	Office of the Chairman	Deputy Director, Office of Legislative and Intergovernmental Affairs.	SE120005	7/26/2012
Small Business Administration	Office of the Administrator	Senior Advisor	SB120028	7/12/2012
	Office of Entrepreneurial Development.	Director of Clusters and Skills Initiatives.	SB120027	7/13/2012
Department of State	Bureau of Legislative Affairs	Senior Advisor	DS120097	7/6/2012
	Office of the Under Secretary for Civilian Security, Democracy and Human Rights.	Senior Advisor	DS120098	7/12/2012
	Office of the Under Secretary for Arms Control and International Security Affairs.	Staff Assistant	DS120096	7/19/2012
	Office of the Under Secretary for Public Diplomacy and Public Affairs.	Staff Assistant	DS120090	7/20/2012
Department of the Treasury	Under Secretary for Domestic Finance.	Special Assistant	DY120101	7/11/2012
	Assistant Secretary for Financial Markets.	Senior Policy Analyst	DY120106	7/13/2012

Agency name	Organization name	Position title	Authorization No.	Effective date
Department of Veterans Affairs	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Special Assistant	DV120061	7/13/2012

The following Schedule C appointing authorities were revoked during July 2012.

Agency	Organization	Position title	Authorization No.	Effective date
Department of Commerce	Office of Policy and Strategic Planning.	Special Assistant	DC110086	7/6/2012
	Office of the Deputy Secretary	Special Assistant	DC120023	7/7/2012
	Office of the Chief of Staff	Deputy Director of Advance	DC110117	7/8/2012
	Office of the Chief of Staff	Senior Advisor to the Secretary	DC120018	7/9/2012
	International Trade Administration	Special Advisor	DC100140	7/28/2012
Department of Homeland Security ..	Office of the Executive Secretary for Operations and Administration.	Secretary Briefing Book Coordinator.	DM110023	7/6/2012
	Office of the Assistant Secretary for Public Affairs.	Special Projects Coordinator	DM120134	7/18/2012
	Office of the Assistant Secretary for Intergovernmental Affairs.	Confidential Assistant	DM120061	7/20/2012
Department of Justice	Office of the Attorney General	Director of Advance	DJ090218	7/27/2012
	Civil Rights Division	Counsel	DJ100004	7/28/2012
Department of the Air Force	Office of Assistant Secretary Air Force for Financial Management and Comptroller.	Special Assistant, Financial Administration and Programs.	DF100005	7/14/2012
Environmental Protection Agency ...	Operations Staff	Special Representative	EP120005	7/13/2012
Small Business Administration	Office of Management and Administration.	Senior Advisor to the Associate Administrator for Management and Administration.	SB110019	7/14/2012
	Office of Entrepreneurial Development.	Senior Advisor to the Associate Administrator for Entrepreneurial Development.	SB100042	7/14/2012
United States International Trade Commission.	Office of the Chairman	Executive Assistant	TC020003	7/3/2012

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2012–23522 Filed 9–24–12; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Federal Salary Council will meet on October 19, 2012, at the time and location shown below. The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations and pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under section 5304 of title 5, United States Code. The Council's recommendations cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid.

The Council will hear public testimony about the locality pay program, review the results of pay comparisons, and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay areas and boundaries for 2014. The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to submit testimony or present material to the Council at the meeting.

DATES: October 19, 2012, at 9 a.m.

Location: Office of Personnel Management, 1900 E Street NW., Room 1350, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jerome D. Mikowicz, Deputy Associate Director, Pay and Leave, Office of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415–8200. Phone (202) 606–2838; FAX (202) 606–4264; or email at *pay-leave-policy@opm.gov.*

For The President's Pay Agent:

John Berry,

Director.

[FR Doc. 2012–23533 Filed 9–24–12; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor

Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form ADV–E, OMB Control No. 3235–0361, SEC File No. 270–318.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form ADV–E (17 CFR 279.8) is the cover sheet for certificates of accounting filed pursuant to rule 206(4)–2 under the Investment Advisers Act of 1940 (17 CFR 275.206(4)–2). The rule further requires that the public accountant file with the Commission a Form ADV–E and accompanying statement within four business days of the resignation, dismissal, removal or other termination of its engagement. Respondents each spend approximately three minutes, annually, complying with the requirements of the form.

The estimate of burden hours set forth above is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or representative survey or study of the cost of Commission rules and forms.

Written 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 will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 19, 2012.

Kevin M. O'Neill.

Deputy Secretary.

[FR Doc. 2012–23540 Filed 9–24–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–Q, OMB Control No. 3235–0578, SEC File No. 270–519.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form N–Q (17 CFR 249.332 and 274.130) is a combined reporting form that is used for reports of registered management investment companies (''funds''), other than small business investment companies registered on Form N–5, under Section 30(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') and Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). Pursuant to Rule 30b1–5 under the Investment Company Act, funds are required to file with the Commission quarterly reports on Form N–Q not more than 60 days after the close of the first and third quarters of each fiscal year containing their complete portfolio holdings.

Form N–Q contains collection of information requirements. The respondents to this information collection are management investment companies subject to Rule 30b1–5 under the Investment Company Act. We estimate that there are 10,453 portfolios required to file reports on Form N–Q. Based on conversations with industry representatives, we estimate that it takes approximately 21 hours per portfolio to prepare Form N–Q. Accordingly, we estimate that the total annual burden estimated associated with Form N–Q is 219,513 hours (21 hours per portfolio x 10,453 portfolios) per year. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. The collection of information under Form N–Q is mandatory. The information provided by the form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written 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 will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov*.

Dated: September 19, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23541 Filed 9–24–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 3a–4, OMB Control No. 3235–0459, SEC File No. 270–401.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments

on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 3a–4 (17 CFR 270.3a–4) under the Investment Company Act of 1940 (15 U.S.C. 80a) (''Investment Company Act'' or ''Act'') provides a nonexclusive safe harbor from the definition of investment company under the Act for certain investment advisory programs. These programs, which include ''wrap fee'' and ''mutual fund wrap'' programs, generally are designed to provide professional portfolio management services to clients who are investing less than the minimum usually required by portfolio managers but more than the minimum account size of most mutual funds. Under wrap fee and similar programs, a client's account is typically managed on a discretionary basis according to pre-selected investment objectives. Clients with similar investment objectives often receive the same investment advice and may hold the same or substantially similar securities in their accounts. Some of these investment advisory programs may meet the definition of investment company under the Act because of the similarity of account management.

In 1997, the Commission adopted rule 3a–4, which clarifies that programs organized and operated in a manner consistent with the conditions of rule 3a–4 are not required to register under the Investment Company Act or comply with the Act's requirements.[1] These programs differ from investment companies because, among other things, they provide individualized investment advice to the client. The rule's provisions have the effect of ensuring that clients in a program relying on the rule receive advice tailored to the client's needs.

Rule 3a–4 provides that each client's account must be managed on the basis of the client's financial situation and investment objectives and consistent with any reasonable restrictions the client imposes on managing the account. When an account is opened, the sponsor[2] (or its designee) must obtain information from each client regarding the client's financial situation and investment objectives, and must allow the client an opportunity to impose reasonable restrictions on managing the account.[3] In addition, the sponsor (or its designee) must contact the client annually to determine whether the client's financial situation or investment objectives have changed and whether the client wishes to impose any reasonable restrictions on the management of the account or reasonably modify existing restrictions. The sponsor (or its designee) must also notify the client quarterly, in writing, to contact the sponsor (or its designee) regarding changes to the client's financial situation, investment objectives, or restrictions on the account's management.[4]

The program must provide each client with a quarterly statement describing all activity in the client's account during the previous quarter. The sponsor and personnel of the client's account manager who know about the client's account and its management must be reasonably available to consult with the client. Each client also must retain certain indicia of ownership of all securities and funds in the account.

The requirement that the sponsor (or its designee) obtain information about each new client's financial situation and investment objectives when their account is opened is designed to ensure that the investment adviser has sufficient information regarding the client's unique needs and goals to enable the portfolio manager to provide individualized investment advice. The sponsor is required to contact clients annually and provide them with quarterly notices to ensure that the sponsor has current information about the client's financial status, investment objectives, and restrictions on management of the account. Maintaining current information enables the portfolio manager to evaluate each client's portfolio in light of the client's changing needs and circumstances. The requirement that clients be provided with quarterly statements of account activity is designed to ensure each client receives an individualized report, which the Commission believes is a key element of individualized advisory services.

The Commission staff estimates that 11,291,005 clients participate each year in investment advisory programs relying on rule 3a-4. Of that number, the staff estimates that 903,280 are new clients and 10,387,725 are continuing clients. The staff estimates that each year investment advisory program sponsors staff engage in 1.3 hours per new client and 1 hour per continuing client to prepare, conduct and/or review interviews regarding the client's financial situation and investment objectives as required by the rule. Furthermore, the staff estimates that each year investment advisory program staff spends 1 hour per client to prepare and mail quarterly client account statements, including notices to update information. Based on the estimates above, the Commission estimates that the total annual burden of the rule's paperwork requirements is 22,852,994 hours.

The total annual hour burden of 22,852,994 hours represents an increase of 17,245,466 hours from the prior estimate of 5,607,528 hours. This increase principally results from an increase in the estimated number of clients, which was due to a change in the way Commission staff made its estimates. The change in annual burden hours also reflects changes in the estimated burden hours associated with several of the collections of information required under the rule (certain burden estimates increased and certain burden estimates decreased). These changes in estimated burden hours per collection of information result from changes in burden hours reported by representatives of investment advisers that rely on rule 3a-4 that Commission staff surveyed.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to

[1] Status of Investment Advisory Programs Under the Investment Company Act of 1940, Investment Company Act Release No. 22579 (Mar. 24, 1997) (62 FR 15098 (Mar. 31,1997)) (''Adopting Release''). In addition, there are no registration requirements under section 5 of the Securities Act of 1933 for these programs. *See* 17 CFR 270.3a–4, introductory note.

[2] For purposes of rule 3a-4, the term ''sponsor'' refers to any person who receives compensation for sponsoring, organizing or administering the program, or for selecting, or providing advice to clients regarding the selection of, persons responsible for managing the client's account in the program.

[3] Clients specifically must be allowed to designate securities that should not be purchased for the account or that should be sold if held in the account. The rule does not require that a client be able to require particular securities be purchased for the account.

[4] The sponsor also must provide a means by which clients can contact the sponsor (or its designee).

minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 19, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23538 Filed 9–24–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation R, Rule 701, OMB Control No. 3235–0624, SEC File No. 270–562.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Regulation R, Rule 701 (17 CFR 247.701) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Regulation R, Rule 701 requires a broker or dealer (as part of a written agreement between the bank and the broker or dealer) to notify the bank if the broker or dealer makes certain determinations regarding the financial status of the customer, a bank employee's statutory disqualification status, and compliance with suitability or sophistication standards.

The Commission estimates that brokers or dealers would, on average, notify 1,000 banks approximately two times annually about a determination regarding a customer's high net worth or institutional status or suitability or sophistication standing as well as a bank employee's statutory disqualification status. Based on these estimates, the Commission anticipates that Regulation R, Rule 701 would result in brokers or dealers making approximately 2,000 notices to banks per year. The Commission further estimates (based on the level of difficulty and complexity of the applicable activities) that a broker or dealer would spend approximately 15 minutes per notice to a bank. Therefore, the estimated total annual third party disclosure burden for the requirements in Regulation R, Rule 701 is 500 [1] hours for brokers or dealers.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 19, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23539 Filed 9–24–12; 8:45 am]

BILLING CODE 8011–01–P

[1] (2000 notices × 15 minutes) = 30,000 minutes/60 minutes = 500 hours.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67892; File No. SR–CBOE–2012–071]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Increase the Maximum Term for LEAPS to Fifteen Years

September 19, 2012.

On July 24, 2012, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to increase the maximum term for Long-Term Equity Options Series (''LEAPS'') to fifteen years. The proposed rule change was published for comment in the **Federal Register** on August 10, 2012.[3] The Commission received one comment on the proposed rule change and a response to the comment from CBOE.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is September 24, 2012. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposal, the comment received, and CBOE's response to the comment. Currently, the maximum term for equity and interest rate LEAPS is three years and the maximum term for index LEAPS is five years. The proposal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67600 (August 6, 2012), 77 FR 47890.

[4] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from: Christopher Nagy, President, KOR Trading LLC, dated August 17, 2012; and Jenny Klebes-Golding, Senior Attorney, CBOE, dated September 6, 2012.

[5] 15 U.S.C. 78s(b)(2).

would increase the maximum term for all LEAPS to fifteen years.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates November 8, 2012 as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23537 Filed 9–24–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67888; File No. SR–BATS–2012–030]

Self-Regulatory Organizations; BATS Exchange, Inc.; Order Granting Approval of Proposed Rule Change To Amend BATS Rule 14.11, Entitled ''Other Securities''

September 19, 2012.

I. Introduction

On July 20, 2012, BATS Exchange, Inc. (''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BATS Rule 14.11, entitled ''Other Securities'' to modify the criteria for certain securities listed on BATS as Index Fund Shares. The proposed rule change was published for comment in the **Federal Register** on August 8, 2012.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

Proposal To Amend Index Fund Shares Rules

The Exchange proposes certain changes to Rule 14.11(c) relating to Index Fund Shares, commonly referred to as exchange-traded funds, to conform the Exchange's listings criteria for Index Fund Shares with the analogous criteria in place for NYSE Arca Equities, Inc. (''NYSE Arca'')[4] and to correct a typographical error. Specifically, the Exchange proposes to amend Exchange Rule 14.11(c) to: (1) Modify the weight and volume requirements for component stocks comprising the applicable index or portfolio for any U.S. index or portfolio and any international or global index or portfolio upon which Index Fund Shares are based; (2) exclude Index Fund Shares, Portfolio Depositary Receipts, Trust Issued Receipts, and Managed Fund Shares (collectively, ''Derivative Securities Products'')[5] when applying the quantitative generic listing criteria in Rule 14.11(c); and (3) modify the minimum number of component stocks for any U.S. index or portfolio and any international or global index or portfolio upon which Index Fund Shares are based to adopt certain exceptions for any index or portfolio that is partially or wholly comprised of Index Fund Shares or other Derivative Securities Products.

Rule 14.11(c)(3) provides that the Exchange may approve a series of Index Fund Shares for listing and trading pursuant to Rule 19b–4(e) under the Act[6] if such series satisfies the criteria set forth in that rule. The Exchange proposes to amend Rule 14.11(c)(3) to amend the index weight requirements and adopt notional volume traded per month[7] to the initial listing standards for Index Fund Shares. The Exchange proposes to amend the minimum component stock weight requirement for monthly trading volumes from 90% to 70% of the weight of the underlying index. In addition, the Exchange proposes to adopt an alternative notional volume traded per month.

Rule 14.11(c)(3)(A)(i)(b) provides that, for U.S. component stock indexes, component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio, each shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares. The Exchange proposes to reduce the minimum component stock weight requirement from 90% to 70% of the weight of the underlying index or portfolio. The Exchange is also proposing to adopt an average minimum trading volume requirement of 250,000 shares over a six-month period instead of in each of the last six months, and to adopt a notional volume traded per month of $25,000,000 averaged over the last six months as an option for meeting the listing requirements.

The Exchange is proposing the same modifications for international or global indexes. Rule 14.11(c)(3)(A)(ii)(b) provides that, for international or global indexes, component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each shall have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares. The Exchange proposes to reduce the minimum component stock weight requirement from 90% to 70% of the weight of the underlying index or portfolio. Further, the Exchange is proposing to adopt an average minimum trading volume requirement of 250,000 shares over a six-month period instead of in each of the last six months, and to adopt a worldwide notional volume traded per month of $25,000,000 averaged over the last six months as an option for meeting the listing requirements. Further, the Exchange also proposes to clarify that the component stock trading volumes are determined on a global basis.

The Exchange believes that reducing the minimum component stock weight requirement for monthly trading volumes from 90% to 70% of the weight of the underlying index reasonably ensures that securities with substantial monthly trading volumes account for a substantial portion of the underlying index and, when applied in conjunction with the other applicable listing requirements, remain sufficiently broad-based in scope to minimize potential manipulation. The Exchange notes that the Commission has previously approved the listing and trading of exchange-traded funds based upon indices that were composed of stocks that did not meet the 90% monthly trading volume weight, but were above the proposed 70% monthly trading volume weight criteria.[8] In addition,

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67558 (August 1, 2012), 77 FR 47444.

[4] The Exchange notes that NYSE Arca uses the term ''Investment Company Units'' to describe the same products that the Exchange calls ''Index Fund Shares.''

[5] Rule 14.11 includes criteria for derivative securities that may be listed or traded on the Exchange, such as Portfolio Depositary Receipts, Trust Issued Receipts, and Managed Fund Shares.

[6] 17 CFR 240.19b–4(e). Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to Rule 19b–4(c)(1), if the Commission has approved, pursuant to Section 19(b) of the Exchange Act, the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.

[7] The notional volume traded per month is the number of shares traded in a calendar month multiplied by the monthly closing price.

[8] *See* Securities Exchange Act Release No. 46306 (August 2, 2002), 67 FR 51916 (August 9, 2002) (SR–NYSE–2002–28) (approving the following funds for trading pursuant to unlisted trading privileges on NYSE: (1) Vanguard Total Stock Market VIPERs; (2) iShares Russell 2000 Index Funds; (3) iShares Russell 2000 Value Index Funds;

this standard would conform BATS's listing standards to existing NYSE Arca requirements approved by the Commission.[9]

With respect to adopting, as an alternative to monthly trading volume, the notional volume traded for each of the last six months to the initial listing standards for both domestic and international indexes, the Exchange believes that notional volume traded averaged per month is a better measure of the liquidity of component stocks of the underlying index or indexes. Specifically, notional volume nullifies the volume discrepancies that generally occur between low priced and high priced stocks.[10]

With respect to requiring a six-month average, instead of a minimum requirement in each of the last six-months, for volume and notional volume, the Exchange believes that an averaged six-month period better indicates the current liquidity on an index and helps eliminate seasonal volume fluctuations of component securities.

The Exchange also proposes to exclude Derivative Securities Products when applying the quantitative listing requirements of Rule 14.11(c)(3)(A)(i)(a), (b), and (c) and 14.11(c)(3)(A)(ii)(a), (b), and (c) relating to listing of Index Fund Shares based on a U.S. index or portfolio or an international or global index or portfolio, respectively. Component stocks in the aggregate, excluding Derivative Securities Products, would be required to meet the criteria of these provisions. Thus, when determining the component weight for the most heavily weighted stock and the five most heavily weighted component stocks for an underlying index that includes a Derivative Securities Product, the weight of any Derivative Securities Products in the underlying index or portfolio would not be considered.

The Exchange proposes to similarly modify the requirement in Rule 14.11(c)(3)(A)(i)(d) that an index or portfolio shall include a minimum of 13 component stocks for an index or portfolio that includes Derivative Securities Products. Specifically, the Exchange proposes that no minimum number of component stocks is required if (a) one or more series of Index Fund Shares or Portfolio Depositary Receipts (as defined in Exchange Rule 14.11(b)) constitute, at least in part, components underlying a series of Index Fund Shares, or (b) one or more series of Derivative Securities Products account for 100% of the weight of the index or portfolio. Thus, if the index or portfolio underlying a series of Index Fund Shares includes one or more series of Index Fund Shares or Portfolio Depositary Receipts, or if it consists entirely of other Derivative Securities Products, then there would not be any minimum number of component stocks required (*i.e.,* one or more components would be acceptable). If, however, the index or portfolio consists of Derivative Securities Products other than Index Fund Shares or Portfolio Depositary Receipts (*e.g.,* Managed Fund Shares) as well as securities that are not Derivative Securities Products (*e.g.,* common stocks), then there must be at least 13 components in the underlying index or portfolio.

The Exchange proposes to modify the requirement in 14.11(c)(3)(A)(ii)(d) that an index or portfolio shall include a minimum of 20 component stocks for an international or global index or portfolio that includes Derivative Securities Products. Specifically, the Exchange proposes that no minimum number of component stocks shall be required so long as (a) one or more series of Index Fund Shares or Portfolio Depositary Receipts (as defined in Exchange Rule 14.11(b)) constitute, at least in part, components underlying a series of Index Fund Shares, or (b) one or more series of Derivative Securities Products account for 100% of the weight of the index or portfolio. For example, if the index or portfolio underlying a series of Index Fund Shares includes one or more series of Index Fund Shares or Portfolio Depositary Receipts, or if it consists entirely of other Derivative Securities Products, then there would not be any minimum number of component stocks required (*i.e.,* one or more components would be acceptable). If, however, the index or portfolio consists of Derivative Securities Products other than Index Fund Shares or Portfolio Depositary Receipts (*e.g.,* Managed Fund Shares) as well as securities that are not Derivative Securities Products (*e.g.,* common stocks), then there must be at least 20 components in the underlying index or portfolio.

The Exchange believes it is appropriate to exclude Derivative Securities Products from the generic criteria specified above for Index Fund Shares and to adopt the above-described exceptions in so far as Derivative Securities Products that may be included in an index or portfolio underlying a series of Index Fund Shares are themselves subject to specific listing and continued listing requirements of the national securities exchange on which they are listed. Such Derivative Securities Products would have been listed and traded on a national securities exchange pursuant to a filing submitted pursuant to Section 19(b) of the Act[11] or would have been listed by a national securities exchange pursuant to the requirements of Rule 19b–4(e) under the Act.[12] Finally, Derivative Securities Products are derivatively priced, and, therefore, the Exchange believes that it would not be necessary to apply the generic quantitative criteria (market capitalization, trading volume, index or portfolio component weighting) applicable to non-Derivative Securities Products (*e.g.,* common stocks) to such products.

In addition to the changes set forth above, the Exchange proposes to correct a typographical error in Rule 14.11(c)(4) where there currently are two sub-sections ''(c)(4)(B).'' The Exchange proposes to change the second reference to (c)(4)(C).

General Provisions

To the extent not specifically addressed in the proposed rules discussed above, the following general provisions of the Exchange's rules will continue to apply to all subject securities affected by the proposed rules (''securities'').

Information Circular

Prior to the commencement of trading, the Exchange will inform its Members in an Information Circular of the special characteristics and risks associated with trading the securities. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of the securities (and/or that the securities are not individually redeemable); (2) Exchange Rule 3.7, which imposes suitability obligations on Exchange Members with respect to

and (4) iShares Russell 2000 Growth Index Fund); Securities Exchange Act Release No. 55953 (June 25, 2007), 72 FR 36084 (July 2, 2007) (SR–NYSE–2007–46) (approving listing on NYSE of HealthShares Orthopedic Repair Exchange-Traded Fund); and Securities Exchange Act Release No. 56695 (October 24, 2007), 72 FR 61413 (October 30, 2007) (SR–NYSEArca–2007–111) (approving listing on NYSE Arca of HealthShares Ophthalmology Exchange-Traded Fund).

[9] *See* NYSE Arca Rule 5.2(j)(3), Commentary .01(a)(A) and (B); *see also* Securities Exchange Act Release No. 61240 (December 24, 2009), 75 FR 168 (January 4, 2010) (SR–NYSEArca–2009–101) (approving proposed rule change to amend NYSE Arca Equities Rule 5.2(j)(3)).

[10] For example, a stock priced at $10 per share that trades 2,500,000 shares in a month has a notional volume of $25,000,000. Conversely, a stock priced at $100 per share that trades 250,000 shares in a month has a notional volume of $25,000,000.

[11] 15 U.S.C. 78s(b).

[12] 17 CFR 240.19b–4(e).

recommending transactions in the securities to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the securities during the Pre-Opening [13] and After Hours Trading Sessions [14] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that Members deliver a prospectus to investors purchasing newly issued securities prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise Members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the securities. Members purchasing securities for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular will also reference that the securities are subject to various fees and expenses described in the registration statement; disclose the trading hours of the securities and, if applicable, the Net Asset Value (''NAV'') calculation time for the securities; and state that information about the securities and the corresponding indexes, if applicable, will be publicly available on the Web site for the securities.

Trading Rules

The Exchange deems the securities to be equity securities, thus rendering trading in the securities subject to the Exchange's existing rules governing the trading of equity securities. The securities will trade on the Exchange from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the securities during all trading sessions. The minimum price increment for quoting and entry of orders in equity securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00 for which the minimum price increment for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to address any concerns about the trading of the securities on the Exchange. Trading of the securities on the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including the securities. The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG [15] or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Exchange has a general policy prohibiting the distribution of material, non-public information by its employees.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the securities. Trading in the securities may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the securities inadvisable. These may include: (1) the extent to which trading in the underlying asset or assets is not occurring; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the securities will be subject to trading halts caused by extraordinary market volatility pursuant to Rule 11.18 or by the halt or suspension of the trading of the current underlying asset or assets.

If the applicable Intraday Indicative Value, value of the underlying index, or the value of the underlying asset or assets (*e.g.,* securities, commodities, currencies, futures contracts, or other assets) is not being disseminated as required, the Exchange may halt trading during the day in which such interruption to the dissemination occurs. If the interruption to the dissemination of the applicable Intraday Indicative Value, value of the underlying index, or the value of the underlying asset or assets persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to a series of the securities is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV is available to all market participants.

Suitability

Currently, Exchange Rule 3.7 governs Recommendations to Customers (Suitability). Prior to the commencement of trading of any inverse, leveraged, or inverse leveraged securities, the Exchange will inform its Members of the suitability requirements of the Exchange Rule 3.7 in an Information Circular. Specifically, Members will be reminded in the Information Circular that, in recommending transactions in these securities, they must have a reasonable basis to believe that (1) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such Member, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the securities. In connection with the suitability obligation, the Information Circular will also provide that Members must make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such Member or registered representative in making recommendations to the customer.

In addition, FINRA has implemented increased sales practice and customer margin requirements for FINRA members applicable to inverse, leveraged, and inverse leveraged securities and options on such securities, as described in FINRA Regulatory Notices 09–31 (June 2009), 09–53 (August 2009) and 09–65 (November 2009) (''FINRA Regulatory Notices''). Members that carry customer accounts will be required to follow the FINRA guidance set forth in the FINRA Regulatory Notices. The Information Circular will reference the FINRA Regulatory Notices regarding sales practice and customer margin requirements for FINRA members applicable to inverse, leveraged, and inverse leveraged securities and options on such securities.

The Exchange notes that, for such inverse, leveraged, and inverse leveraged securities, the corresponding funds seek leveraged, inverse, or leveraged inverse returns on a daily basis, and do not seek to achieve their stated investment objective over a period of time greater than one day because compounding prevents the funds from perfectly achieving such results. Accordingly, results over

[13] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[14] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[15] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

periods of time greater than one day typically will not be a leveraged multiple (+200%), the inverse (–100%), or a leveraged inverse multiple (–200%) of the period return of the applicable benchmark and may differ significantly from these multiples. The Exchange's Information Circular, as well as the applicable registration statement, will provide information regarding the suitability of an investment in such securities.

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act [16] and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the proposal is narrowly tailored to conform BATS's listing criteria for Index Fund Shares to the analogous criteria of another national securities exchange.[19] The Commission notes that it has previously approved the same criteria in question and believes that BATS's proposal will benefit investors by increasing competition among markets listing and trading exchange-traded funds, to the benefit of investors and other market participants.

In addition, the Commission notes the following with respect to Index Fund Shares listed and traded under Exchange Rule 14.11(c), as proposed to be amended:

(1) Prior to the commencement of trading, the Exchange will inform Members in an Information Circular of the special characteristics, risks, and other information associated with trading Index Fund Shares;

(2) The Exchange represents that Index Fund Shares are deemed to be equity securities and, as such, trading in Index Fund Shares are subject to the Exchange's existing rules governing the trading of equity securities and that it has appropriate rules to facilitate transactions in Index Fund Shares during all trading sessions;

(3) Trading of Index Fund Shares on the Exchange are subject to the Exchange's surveillance procedures for derivative products, and the Exchange believes that its surveillance procedures are adequate to address any concerns about the trading of Index Fund Shares on the Exchange. Further, the Exchange represents that it may obtain information via ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement;

(4) Trading in the securities will be subject to trading halts caused by extraordinary market volatility pursuant to Rule 11.18 or by the halt or suspension of the trading of the current underlying asset or assets. Trading in Index Fund Shares may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the securities inadvisable. These may include: (a) The extent to which trading in the underlying asset or assets is not occurring; or (b) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Moreover, if the applicable Intraday Indicative Value, value of the underlying index, or the value of the underlying asset or assets is not being disseminated as required, the Exchange may halt trading during the day in which such interruption to the dissemination occurs. If the interruption to the dissemination of the applicable Intraday Indicative Value, value of the underlying index, or the value of the underlying asset or assets persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to a series of the securities is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV is available to all market participants.

(5) The Commission also notes that the listing standards applicable to Index Fund Shares currently permit the listing and trading of Index Fund Shares that seek leveraged, inverse, or inverse leveraged returns on a daily basis. Prior to the commencement of trading of any inverse, leveraged, or inverse leveraged securities, the Exchange will inform its Members of the suitability requirements under Exchange Rule 3.7 in the Information Circular, as discussed in more detail above, as well as reference the FINRA Regulatory Notices regarding sales practice and customer margin requirements for FINRA members applicable to inverse, leveraged, and inverse leveraged securities and options on such securities.

The Commission also believes that the Exchange's proposal to correct a typographical error in the numbering of its rules is consistent with Section 6(b)(5) of the Act as this should allow for greater clarity and accuracy of the Exchange's listing rules.

This approval order is based on all of the Exchange's representations.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–BATS–2012–030) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23564 Filed 9–24–12; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78f.

[17] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] *See supra* notes 4 and 9.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8041]

Advisory Committee Meeting

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (FACA), the Advisory Committee on the Secretary of State's Strategic Dialogue with Civil Society will convene in Washington, DC on October 24, 2012. The Committee provides advice on the formulation of U.S. policies, proposals, and strategies for engagement with, and protection of, civil society worldwide. The objective of this meeting is to review the progress of the Committee's five subcommittees. The meeting is open to public participation through live stream at *http://www.state.gov/s/sacsed/c47725.htm.*

DATES: The meeting will be held on October 24, 2012, from 10 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at the U.S. Department of State, 2201 C Street NW., Washington, DC.

Written comments may be submitted to Madeleine Ioannou via email to *civilsociety@state.gov* or facsimile to (202) 736–7880. All comments, including names and addresses when provided, are placed in the record and are available for inspection and copying. The public may inspect comments received at the U.S. Department of State, 2201 C Street NW., Room 1317, Washington, DC 20520. Please call ahead to (202) 736–7824 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Madeleine Ioannou, Committee Executive Secretary, U.S. Department of State, 2201 C Street NW., Room 1317, Washington, DC 20520; (202) 736–7308; *civilsociety@state.gov*.

SUPPLEMENTARY INFORMATION: The meeting is open to the public and will be streamed live at: *http://www.state.gov/s/sacsed/c47725.htm*. Agenda items to be covered include: (1) Introductions, (2) Presentations by the Chairs of the Subcommittees, (3) Discussion of any Public Submissions, (4) General Discussion, (5) Adjournment. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff by sending an email to *civilsociety@state.gov*. A member of the public requesting reasonable accommodation should contact the officer listed above with this request, prior to October 17th. Requests received after that date will be considered, but might not be possible to fulfill.

Dated: September 19, 2012.

Madeleine Ioannou,

Office of the Senior Advisor for Civil Society and Emerging Democracies, U.S. Department of State.

[FR Doc. 2012–23609 Filed 9–24–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8040]

Persons on Whom Sanctions Have Been Imposed Under the Iran Sanctions Act of 1996

AGENCY: Bureau of Economic and Business Affairs, Department of State.

ACTION: Notice.

SUMMARY: The Secretary of State has determined that the following persons have engaged in sanctionable activity described in section 5(a) of the Iran Sanctions Act of 1996 (Pub. L. 104–172) (50 U.S.C. 1701 note) (''ISA''), as amended by the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (22 U.S.C. 8501–51) (''CISADA''), and that certain sanctions should be imposed as a result: Sytrol.

DATES: *Effective Date:* The sanctions on Sytrol are effective August 10, 2012.

FOR FURTHER INFORMATION CONTACT: On general issues: Christopher Backemeyer, Office of Sanction Policy and Implementation, Department of State, Telephone: (202) 647–4322.

For U.S. Government procurement ban issues: Daniel Walt, Office of the Procurement Executive, Department of State, Telephone: (703) 516–1696.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated to the Secretary of State in the Presidential Memorandum of September 23, 2010, 75 FR 67025 (the ''Delegation Memorandum''), the Secretary has determined that the following persons have engaged in sanctionable activity described in section 5(a) of the ISA, as amended by the CISADA: Sytrol.

Pursuant to section 5(a) of the ISA and the Delegation Memorandum, the Secretary determined to impose on Sytrol the following sanctions described in section 6 of the ISA:

1. Procurement sanction. The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from Sytrol.

2. Banking transactions. Any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Sytrol, shall be prohibited.

3. Property transactions. It shall be prohibited to:

a. Acquire, hold, withhold, use, transfer, withdraw, transport, import, or export any property that is subject to the jurisdiction of the United States and with respect to which Sytrol has any interest;

b. Deal in or exercise any right, power, or privilege with respect to such property; or

c. Conduct any transaction involving such property.

Based on the sanctions imposed on Sytrol, these prohibitions also apply with respect to any person in which Sytrol has an interest of fifty percent or more. These sanctions apply with respect to Sytrol and not to any subsidiary, affiliate, or shareholder thereof unless separately identified.

The sanctions described above with respect to Sytrol shall remain in effect until otherwise directed pursuant to the provisions of the ISA or other applicable authority. Pursuant to the authority delegated to the Secretary of State in the Delegation Memorandum, relevant agencies and instrumentalities of the United States Government shall take all appropriate measures within their authority to carry out the provisions of this notice. The Secretary of the Treasury is taking appropriate action to implement the sanctions for which authority has been delegated to the Secretary of the Treasury pursuant to the Delegation Memorandum and Executive Order 13574 of May 23, 2011.

The following constitutes a current, as of this date, list of persons on whom sanctions are imposed under the ISA. The particular sanctions imposed on an individual company are identified in the relevant **Federal Register** Notice.

—Allvale Maritime Inc. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Associated Shipbroking (a.k.a. SAM) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Belarusneft (see Public Notice 7408, 76 FR 18821, April 5, 2011)
—FAL Oil Company Limited (see Public Notice 7776, 77 FR 4389, Jan. 27, 2012)
—Kuo Oil (S) Pte. Ltd. (see Public Notice 7776, 77 FR 4389, Jan. 27, 2012)
—Naftiran Intertrade Company (see Public Notice 7197, 75 FR 62916, Oct. 13, 2010)
—Petrochemical Commercial Company International (a.k.a. PCCI) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Petróleos de Venezuela S.A. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Royal Oyster Group (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Société Anonyme Monégasque D'Administration Maritime Et Aérienne (a.k.a. S.A.M.A.M.A., a.k.a. SAMAMA) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Speedy Ship (a.k.a. SPD) (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Sytrol
—Tanker Pacific Management (Singapore) Pte. Ltd. (see Public Notice 7585, 76 FR 56866, September 14, 2011)
—Zhuhai Zhenrong Company (see Public Notice 7776, 77 FR 4389, Jan. 27, 2012)

Dated: September 18, 2012.

Deborah A. McCarthy,

Acting Assistant Secretary of State for Economic and Business Affairs.

[FR Doc. 2012–23614 Filed 9–24–12; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the St. George Airport, St. George, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at St. George Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before October 25, 2012.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. John P. Bauer, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary Esplin, City Manager, City of St. George, Utah, at the following address: Mr. Gary Esplin, City Manager, City of St. George, 175 East 200 North, St. George, Utah 84770.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Miller, Colorado Engineer/Compliance Specialist, Federal Aviation Administration, Northwest Mountain Region, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249–6361.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the St. George Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

The FAA Modernization and Reform Act of 2012, HR 658, Section 817, gave the Secretary of Transportation the authorization to grant an airport, city, or county release from any of the terms, conditions, reservations, or restrictions contained in a deed under which the United States conveyed to the airport, city, or county an interest in real property for airport purposes pursuant to Section 16 of the Federal Airport Act (60 Stat. 179) or Section 23 of the Airport and Airway Development Act of 1970 (84 Stat. 232).

On September 14, 2012, the FAA determined that the request to release property at the St. George Airport submitted by the City of St. George meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than October 25, 2012.

The following is a brief overview of the request:

The City of St. George is proposing the release from the terms, conditions, reservations, and restrictions on a 40 acre parcel of property by an instrument of disposal dated June 28, 1951. The property was conveyed to St. George under Section 16 of the Surplus Property Act of 1944 to be used in developing, improving, operating, or maintaining and operating a public airport. Physical constraints of the airport site required the construction and opening of the Replacement Airport in 2011 approximately 15 miles to the east. The former St. George Airport was decommissioned on January 15, 2011. The former airport is no longer needed for aviation purposes and the release is to allow for the sale of the property so the proceeds from the sale can be used towards payment of the City's share of the costs associated with the Replacement Airport. A portion of the property will be sold to the State of Utah for construction of an institution of higher education. The remainder of the property, will be sold as the market improves, with the proceeds being used to reimburse St. George for costs associated with the Replacement Airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the St George Airport.

Issued in Denver, Colorado, on September 14, 2012.

John P. Bauer,

Manager, Denver Airports District Office.

[FR Doc. 2012–23556 Filed 9–24–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Action on Proposed Bridge Rehabilitation and Restoration in Massachusetts

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitations on Claims for Judicial Review of Action by FHWA.

SUMMARY: This notice announces action taken by the FHWA that is final within the meaning of 23 U.S.C. 139(l)(1). The action relates to the proposed Longfellow Bridge Rehabilitation and Restoration Project in Boston and Cambridge, Massachusetts. The action grants an approval for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. Sec. 139(l)(1). A claim seeking judicial review of the Federal agency action on the highway project will be barred unless the claim is filed on or before March 25, 2013.

FOR FURTHER INFORMATION CONTACT: For FHWA: Ms. Damaris Santiago, Environmental Engineer, FHWA Massachusetts Division Office, 55 Broadway, 10th Floor, Cambridge, MA 02142, 617–494–2419, *dsantiago@dot.gov*. For Massachusetts Department of Transportation (MassDOT) Highway Division: Mr. Michael O'Dowd, Project Manager, MassDOT Highway Division, 10 Park Plaza, Room 4260, Boston, MA 02116, 9 a.m. to 5 p.m., 617–973–7475, *Michael.O'Dowd@state.ma.us*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency action subject to 23 U.S.C. Sec. 139(l)(1) by issuing approval for the following bridge/highway improvement project in the Commonwealth of Massachusetts. The proposed project involves the rehabilitation and restoration of the Longfellow Bridge over the Charles River. It also includes the replacement of the adjacent pedestrian bridge over Storrow Drive. The project proposes to address the Longfellow Bridge's structural deficiencies and upgrade its structural capacity. In addition, the project will restore those elements that give the bridge its historic character in accordance with the Secretary of Interior's Standards for the Treatment of Historic Properties, and will bring the facilities into compliance with modern standards, in particular the Americans with Disabilities Act. It is one of the largest projects to be undertaken by MassDOT under the Commonwealth's $3 billion Accelerated Bridge Program. The action by the Federal agency, and the law under which the action was taken, are described in the Environmental Assessment (EA), for which a Finding of No Significant Impact (FONSI) was issued on August 24, 2012 and other documents in the FHWA project records. The EA, FONSI

and other project records are available by contacting FHWA or MassDOT at the addresses above. The FHWA EA and FONSI can be viewed and downloaded from the project Web site at *http://www.massdot.state.ma.us/charlesriverbridges/LongfellowBridge.aspx* or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act of 1969.

2. Section 4(f) of the Department of Transportation Act of 1966.

Authority: 23 U.S.C. Sec. 139(l)(1).

Issued on: September 12, 2012.

Pamela S. Stephenson,

Division Administrator, Cambridge, MA.

[FR Doc. 2012–23331 Filed 9–24–12; 8:45 am]

BILLING CODE 4910–RY–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0134]

Public Hearing To Determine Whether Wildfire Has Met Remedy Requirements

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

ACTION: Notice of public hearing.

SUMMARY: NHTSA will hold a public hearing on whether Snyder Computer Systems, Inc. and Snyder Systems, Inc., also known as Wildfire Motors (Wildfire),[1] of Steubenville, Ohio, have reasonably met their obligation to remedy noncompliances with Federal Motor Vehicle Safety Standard (FMVSS) No. 122, *Motorcycle brake systems,* in a recall involving Model Year (MY) 2009 WF650–C three-wheeled vehicles, which Wildfire imported from China.

DATES: The public hearing will be held beginning at 10 a.m. ET on October 15, 2012 in the Oklahoma City room of the U.S. Department of Transportation Conference Center, located at 1200 New Jersey Avenue SE., Washington, DC 20590. NHTSA recommends that all persons attending the proceedings arrive at least 45 minutes early in order to facilitate entry into the Conference Center. NHTSA cannot ensure that late arrivals will be permitted access to the hearing. Attendees are strongly discouraged from bringing laptop computers to the hearing, as they will be subject to additional security measures. If you wish to attend or speak at the hearing, you must register in advance no later than October 9, 2012 (and October 4, 2012 for non-U.S. citizens), by following the instructions in the *Procedural Matters* section of this notice. NHTSA will consider late registrants to the extent time and space allows, but cannot ensure that late registrants will be able to attend or speak at the hearing. To ensure that NHTSA has an opportunity to consider comments, NHTSA must receive written comments by October 9, 2012.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202–366–9324.

Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For registration to attend or speak at the public hearing: Sabrina Fleming, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (Telephone: 202–366–9896) (Fax: 202–366–3081). For hearing procedures: Kerry Kolodziej, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (Telephone: 202–366–5263) (Fax: 202–366–3820). Information regarding the recall is available on NHTSA's Web site: *http://www.safercar.gov*. To find this recall: (1) In the drop-down menu under ''Safety Recalls,'' search for a recall by vehicle; (2) select model year 2009; (3) select Wildfire as the make; (4) select WF650–C as the model; and (5) click ''Retrieve Recalls.'' Once information on Recall No. 12V–031 is displayed, clicking on the ''Document Search'' button will display recall-related documents.

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 30120(e) and 49 CFR 557.6(d) and 557.7, NHTSA has decided to hold a public hearing on whether Wildfire has reasonably met its obligation under the National Traffic and Motor Vehicle Safety Act, as amended (Safety Act), to remedy the MY 2009 Wildfire WF650–C's noncompliances with FMVSS No. 122, *Motorcycle brake systems*. The noncompliances are the subject of a recall campaign, Recall No. 12V–031.

I. Initiation of a Recall

A manufacturer of a motor vehicle that decides in good faith that the vehicle does not comply with an applicable FMVSS must notify NHTSA by submitting a Defect and Noncompliance Information Report, commonly referred to as a Part 573 Report. 49 U.S.C. 30118(c); 49 CFR 573.6.[2] A Part 573 Report shall be submitted not more than 5 working days after a noncompliance with a FMVSS has been determined to exist. 49 CFR 573.6(b). The manufacturer must subsequently file quarterly reports with NHTSA containing information including the number of vehicles that have been remedied. 49 CFR 573.7.

Pursuant to the Safety Act, a ''manufacturer'' of a motor vehicle is a person manufacturing or assembling motor vehicles, or a person importing motor vehicles for resale. 49 U.S.C. 30102(a)(5). Both the importer of a motor vehicle and the fabricating manufacturer of the vehicle are responsible for remedying any noncompliance determined to exist in the vehicle. 49 CFR 573.5(a). As to imported motor vehicles, compliance with recall regulations by either the fabricating manufacturer or the importer of the vehicle shall be considered compliance by both. 49 CFR 573.3(b).

II. Remedy Requirements

A manufacturer of a noncomplying motor vehicle is required to remedy the vehicle without charge. 49 U.S.C. 30120(a). The manufacturer may remedy the noncompliance by repairing the vehicle, by replacing the vehicle with an identical or reasonably equivalent vehicle, or by refunding the purchase

[1] Wildfire Motors is a registered trade name of Snyder Computer Systems, Inc. In correspondence with NHTSA, Wildfire has also used the corporate name Snyder Systems, Inc.

[2] In addition to its notification to NHTSA, if the manufacturer of a motor vehicle decides in good faith that the vehicle does not comply with an applicable FMVSS, the manufacturer must notify owners, purchasers, and dealers of the vehicle of the noncompliance. 49 U.S.C. 30118(c); *see* 49 CFR part 573; 49 CFR part 577.

price, less a reasonable allowance for depreciation. 49 U.S.C. 30120(a). If a manufacturer decides to repair a noncomplying motor vehicle and the repair is not done adequately within a reasonable time, the manufacturer shall replace the vehicle without charge with an identical or reasonably equivalent vehicle, or refund the purchase price, less a reasonable allowance for depreciation. 49 U.S.C. 30120(c).

On its own motion or on application by any interested person, NHTSA may conduct a hearing to decide whether a manufacturer has reasonably met the remedy requirements. 49 U.S.C. 30120(e). If NHTSA decides that the manufacturer has not reasonably met the remedy requirements, it shall order the manufacturer to take specified action to meet those requirements, including by ordering the manufacturer to refund the purchase price of the noncomplying vehicles, less a reasonable allowance for depreciation. 49 U.S.C. 30120(a), (c), (e). NHTSA may also take any other action authorized by the Safety Act, including assessing civil penalties. *See* 49 U.S.C. 30120(e), 30165(a)(1). A person that violates the Safety Act, including its remedy requirements, or regulations prescribed thereunder, is liable to the United States Government for a civil penalty of not more than $6,000 for each violation. A separate violation occurs for each motor vehicle and for each failure to perform a required act. The maximum penalty for a related series of violations is $17,350,000. 49 U.S.C. 30165(a)(1); 49 CFR 578.6.

III. MY 2009 Wildfire WF650–C

The MY 2009 WF650–C is a three-wheeled vehicle with an enclosed cab body style. As a three-wheeled vehicle, the MY 2009 WF650–C is subject to the FMVSSs for motorcycles. *See* 49 CFR 571.3(b).

Wildfire is the importer of the MY 2009 WF650–C and the registered agent for the fabricating manufacturer, Taixing Sandi Motorcycle Co., Ltd. (TSM) of China. Don Snyder is the President and CEO of the privately held Wildfire.

A. NHTSA's Investigation of the MY 2009 WF650–C

1. NHTSA's Testing and Apparent Noncompliances Identified

In 2009, NHTSA tested a NHTSA-owned MY 2009 WF650–C for compliance with FMVSS No. 122, *Motorcycle brake systems,* at Transportation Research Center Inc. (TRC) in East Liberty, Ohio.[3]

NHTSA identified multiple apparent noncompliances with FMVSS No. 122. First, the vehicle did not comply with the first effectiveness requirement of FMVSS No. 122, S5.2.1, *Service brake system,* because the service brakes were not capable of stopping the motorcycle from 30 m.p.h. within 54 feet during NHTSA's testing.[4] Due to this apparent noncompliance with the stopping distance requirements, NHTSA terminated its testing following this first (preburnished) effectiveness testing. Additionally, NHTSA observed that the vehicle did not comply with FMVSS No. 122, S5.1.2.1, *Master cylinder reservoirs,* because it did not have a separate reservoir for each brake circuit with each reservoir filler opening having its own cover, seal, and cover retention device. NHTSA notified Wildfire of these apparent noncompliances on December 18, 2009.[5]

NHTSA also later identified and notified Wildfire of two additional apparent noncompliances with other requirements of FMVSS No. 122. First, the vehicle did not comply with FMVSS No. 122, S5.1.2.2, *Reservoir labeling,* because there was no label as required. Second, the vehicle did not comply with FMVSS No. 122, S5.1.3.1, *Failure indicator lamp,* because the vehicle did not have a failure indicator lamp (which is required to activate for pressure failure, low fluid, and momentarily when the ignition switch is turned to the ''on'' or ''start'' position).[6]

2. Wildfire's Response to Apparent Noncompliances Identified By NHTSA

Although NHTSA provided Wildfire with information in December 2009 regarding the apparent noncompliances with the stopping distance and master cylinder reservoir requirements, Wildfire did not acknowledge at that time that the MY 2009 WF650–C failed to comply with FMVSS No. 122. NHTSA's December 2009 letter requested certain information from Wildfire, to further its investigation of the apparent noncompliances.[7] Wildfire responded on March 5, 2010 and made the unsubstantiated allegation (on behalf of TSM) that the NHTSA-owned vehicle's brakes must have been out of adjustment, and therefore it was not a representative vehicle.[8] Wildfire claimed that when TSM conducted brake testing in China, ''the result was the brakes were fine.''[9] Wildfire provided an untranslated Chinese test report. However, that report did not appear to indicate that any stopping distance tests were performed. Wildfire also indicated that it conducted its own stopping distance tests, but did not provide any documentation evidencing that those tests were consistent with FMVSS No. 122.[10] Wildfire did not provide any response regarding the apparent noncompliance with FMVSS No. 122, S5.1.2.1, *Master cylinder reservoirs*.

After NHTSA notified Wildfire that its response was deficient, Wildfire purported to conduct stopping distance testing on a vehicle in April 2010.[11] The testing data provided by Wildfire did not appear realistic, and NHTSA sought additional documentation from Wildfire.[12] Instead, Wildfire inquired, in June 2010, if it could make arrangements to observe the NHTSA-owned vehicle at TRC.[13] In August 2010, Wildfire specifically requested retesting of the NHTSA-owned vehicle and the opportunity to make adjustments to the vehicle.[14]

After making arrangements with NHTSA, on September 28, 2010, Wildfire representatives inspected the vehicle at TRC and adjusted and bled the brakes. Wildfire claimed that these adjustments would allow the vehicle to comply with the stopping distance requirements. However, the adjustments did not materially change the results. When the vehicle was retested on September 30, 2010, it again failed to stop from 30 m.p.h. within 54 feet (or from 45 m.p.h. within 121 feet), as required by FMVSS No. 122, S5.2.1, *Service brake system*.[15] NHTSA notified Wildfire of the results by email on October 1, 2010.[16] Instead of acknowledging the vehicle was noncompliant with FMVSS No. 122

[3] *See* NHTSA, Safety Compliance Testing for FMVSS 122, Final Report No. 122–TRC–11–001 (Aug. 18, 2011). The test report is publicly available by searching on *http://www.nhtsa.gov/cars/problems/comply/*.

[4] The vehicle also was unable to stop from 45 m.p.h. within 121 feet, as required by the Standard, based on several attempted stops.

[5] Letter from H. Thompson, NHTSA to D. Snyder, Wildfire (Dec. 18, 2009).

[6] *See* Letter from C. Harris, NHTSA to D. Snyder, Wildfire (sent Dec. 27, 2011).

[7] Letter from H. Thompson, NHTSA to D. Snyder, Wildfire (Dec. 18, 2009).

[8] *See* Email from A. Tipton, Wildfire to S. Seigel, NHTSA (Mar. 5, 2010).

[9] Email from A. Tipton, Wildfire to S. Seigel, NHTSA (Mar. 5, 2010).

[10] *See* Letter from C. Harris, NHTSA to D. Snyder, Wildfire (sent Dec. 27, 2011).

[11] Letter from C. Harris, NHTSA to D. Snyder, Wildfire (sent Dec. 27, 2011).

[12] *See* Letter from C. Harris, NHTSA to D. Snyder, Wildfire (sent Dec. 27, 2011).

[13] *See* Letter from C. Harris, NHTSA to D. Snyder, Wildfire (sent Dec. 27, 2011).

[14] *See* Letter from C. Harris, NHTSA to D. Snyder, Wildfire (sent Dec. 27, 2011).

[15] Letter from C. Harris, NHTSA to D. Snyder, Wildfire (sent Dec. 27, 2011).

[16] Email from S. Seigel, NHTSA to A. Tipton, Wildfire (Oct. 1, 2010).

following this testing, Wildfire continued to delay.

In December 2011, NHTSA requested in writing that Wildfire and/or TSM make a determination that the MY 2009 WF650–C is noncompliant with FMVSS No. 122 and conduct a voluntary recall. NHTSA's recall request letter addressed each of the four apparent noncompliances identified above.[17]

B. Wildfire's Notifications to NHTSA of FMVSS No. 122 Noncompliances

Following NHTSA's formal request, and over two years after NHTSA notified Wildfire of the apparent noncompliances with the stopping distance and master cylinder reservoir requirements, Wildfire initiated a recall.[18] Wildfire first notified NHTSA that the MY 2009 WF650–C was noncompliant with FMVSS No. 122 by submitting a Part 573 Report prepared on January 30, 2012.[19] Wildfire acknowledged noncompliances with the master cylinder reservoir, reservoir labeling, and failure indicator lamp requirements.

However, Wildfire did not address the stopping distance requirements of FMVSS No. 122 in its initial Part 573 Report. In a letter to Wildfire dated February 1, 2012, NHTSA again requested that Wildfire determine there was a noncompliance with S5.2.1, *Service brake system*.[20] Wildfire responded with an amended Part 573 Report, prepared February 3, 2012, acknowledging that NHTSA found that the WF650–C did not meet the stopping distance requirements of FMVSS No. 122, in addition to acknowledging the other noncompliances addressed by Wildfire's earlier Part 573 Report.[21]

NHTSA identified several deficiencies with Wildfire's amended Part 573 Report, including that it failed to include a clear and unequivocal statement by Wildfire that a noncompliance existed with the stopping distance requirements of FMVSS No. 122 and failed to specify a valid remedy for that noncompliance.[22] Wildfire subsequently submitted a second amended Part 573 Report, prepared February 20, 2012.[23] This Part 573 Report acknowledged noncompliances with all four requirements identified by NHTSA.

NHTSA assigned Recall Number 12V–031 to Wildfire's recall campaign. Most recently, Wildfire reported that there are 197 vehicles subject to the recall.[24]

C. Wildfire's Repair Remedy

Wildfire elected the remedy of repairing the FMVSS No. 122 noncompliances subject to the recalls. *See* 49 U.S.C. 30120(a). However, Wildfire reported in August 2012 that none of the vehicles subject to the recall have been repaired.[25]

In its notification letter to owners regarding the recall, Wildfire indicated that the WF650–C should not be operated until the vehicle is remedied, that parts should be available for the repair after May 14, 2012, and that owners should contact a Wildfire dealer as soon as possible to obtain a service date.[26] Wildfire first sent this letter on April 18, 2012 to owners based on information from its internal records about purchasers.[27] It appears Wildfire subsequently sent the same letter on June 1, 2012 to registered owners, based on vehicle registration information, despite knowing that the information in the letter was incorrect because parts were still not available.[28]

After Wildfire failed to provide NHTSA with sufficient information about its proposed repair remedy in response to NHTSA's requests, on June 5, 2012 NHTSA sent Wildfire a Special Order seeking additional information related to the recall and repair remedy. Wildfire responded to the Special Order on July 12, 2012. Wildfire indicated in its response that it did not expect parts to be available for the repairs until July 20, 2012.[29] Wildfire also indicated that it would send dealers instructions for the repair remedy on July 20, 2012.[30] It appears that Wildfire did not do so.[31]

Wildfire also represented in its Special Order response, made under oath, that its repair remedy would make MY 2009 WF650-Cs compliant with all applicable requirements of FMVSS No. 122.[32] Wildfire indicated it was relying on a representation from TSM (the Chinese fabricating manufacturer).[33] Wildfire did not provide any testing data or other information to support the contention that the repair remedy was effective. In fact, Wildfire acknowledged it was not sure whether the remedy had been tested.[34] Wildfire also represented in its response that it hoped to have all MY 2009 WF650-Cs repaired by September 5, 2012.[35]

Wildfire also entered into an Agreement with NHTSA to repair the NHTSA-owned MY 2009 WF650–C in accordance with its repair remedy, which NHTSA would then retest to the requirements of FMVSS No. 122.[36] Wildfire retrieved the vehicle on July 23, 2012, purported to repair it, and returned it to NHTSA on July 31, 2012.[37] Pursuant to the Agreement, by August 10, 2012, Wildfire was required to provide NHTSA with a detailed description of every part installed as well as every change or modification made to the vehicle, which Wildfire failed to do. NHTSA proceeded with testing its repaired WF650–C vehicle in August and September 2012. Based on

[17] Letter from C. Harris, NHTSA to D. Snyder, Wildfire (sent Dec. 27, 2011); *see* Letter from C. Harris, NHTSA to J. Ji, TSM (Jan. 18, 2012).

[18] Although TSM did not respond to NHTSA's recall request, compliance with recall regulations by either the fabricating manufacturer or the importer of a vehicle is considered compliance by both. 49 CFR 573.3(b). Nothing herein limits TSM's responsibilities and liabilities for the noncompliance with these vehicles.

[19] Recall No. 12V–031, Part 573 Report (prepared Jan. 30, 2012). Wildfire's Part 573 Reports and other documents relevant to the recall are available at *www.safercar.gov*.

[20] Letter from C. Harris, NHTSA to D. Snyder, Wildfire (Feb. 1, 2012).

[21] Recall No. 12V–031, Amended Part 573 Report (prepared Feb. 3, 2012).

[22] Letter from C. Harris, NHTSA to D. Snyder, Wildfire (Feb. 9, 2012).

[23] Recall No. 12V–031, Second Amended Part 573 Report (prepared Feb. 20, 2012).

[24] Recall No. 12V–031, Quarterly Report (Aug. 21, 2012). Wildfire previously reported that there were 202 or 200 vehicles subject to the recall, but has not explained why the number has changed. *See* Recall No. 12V–031, Part 573 Report I (prepared Jan. 30, 2012) (202 vehicles); Recall No. 12V–031, Amended Part 573 Report I (prepared Feb. 3, 2012) (202 vehicles); Recall No. 12V–031, Second Amended Part 573 Report I (prepared Feb. 20, 2012) (200 vehicles).

[25] Recall No. 12V–031, Quarterly Report (Aug. 21, 2012).

[26] Wildfire, Response to Special Order, Request for Production of Documents No. 2, Att. (July 12, 2012).

[27] Wildfire, Response to Special Order, Interrogatory No. 14, Att. (July 12, 2012).

[28] *See* Wildfire, Response to Special Order, Interrogatory No. 15 (July 12, 2012). In addition to receiving a notice containing incorrect information, registered owners also did not receive a notification of the recall until well after 60 days from Wildfire's noncompliance decision, as is expected. *See* NHTSA, Safety Recall Compendium at 7–8, *http://www-odi.nhtsa.dot.gov/cars/problems/recalls/documents/recompendium.pdf*.

[29] Wildfire, Response to Special Order, Interrogatory No. 15 (July 12, 2012).

[30] Wildfire, Response to Special Order, Interrogatory No. 13 (July 12, 2012).

[31] A manufacturer is required to furnish NHTSA with a copy of each communication involving a recall that the manufacturer issued to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, owner, or purchaser, no later than five working days after the end of the month in which it is issued. 49 CFR 579.5.

[32] Wildfire, Response to Special Order, Interrogatory No. 4 (July 12, 2012).

[33] Wildfire, Response to Special Order, Interrogatory No. 4 (July 12, 2012).

[34] Wildfire, Response to Special Order, Interrogatory No. 6 (July 12, 2012).

[35] Wildfire, Response to Special Order, Interrogatory No. 5 (July 12, 2012).

[36] Letter from O. K. Vincent, NHTSA to D. Snyder, Wildfire (July 17, 2012) (enclosing fully executed repair Agreement).

[37] Contrary to the terms of the Agreement, Wildfire kept the vehicle longer than 5 business days and drove the vehicle approximately 48 more miles than the 2 miles it was permitted.

this testing, the repaired vehicle still did not meet the stopping distance requirements of FMVSS No. 122, S5.2.1, *Service brake system*. NHTSA also observed that the failure indicator lamp installed by Wildfire as part of its remedy did not meet the requirements of FMVSS No. 122, S5.1.3.1, *Failure indicator lamp,* because it did not: (1) Activate as required for low fluid; (2) activate as required for pressure failure; (3) momentarily activate when the ignition switch was turned from the ''off'' to the ''on'' or to the ''start'' position; and (4) include the required wording (''Brake Failure'').[38]

Thus, contrary to Wildfire's representation, its repair remedy does not bring the recalled vehicles into compliance with FMVSS No. 122. The vehicles subject to the recall remain noncompliant.

IV. Decision To Conduct a Public Hearing

NHTSA has decided that it is necessary to conduct a public hearing to decide whether Wildfire has reasonably met the remedy requirements under 49 U.S.C. 30120. *See* 49 U.S.C. 30120(e); 49 CFR 557.6(d), 557.7. NHTSA will conduct the public hearing in the Oklahoma City room of the U.S. Department of Transportation Conference Center, located on the first floor of the West Building at 1200 New Jersey Avenue SE., Washington, DC 20590. Any interested person may make written and/or oral presentations of information, views, and arguments on whether Wildfire has reasonably met the remedy requirements. There will be no cross-examination of witnesses. 49 CFR 557.7.

NHTSA will consider the views of participants in deciding whether Wildfire has reasonably met the remedy requirements under 49 U.S.C. 30120, and in developing the terms of an order (if any) requiring Wildfire to take specified action as the remedy for the noncompliances and/or take other action. 49 U.S.C. 30120(e); 49 CFR 557.8.

Procedural Matters: Interested persons may participate in these proceedings through written and/or oral presentations. Persons wishing to attend must notify Sabrina Fleming, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (Telephone: 202–366–9896) (Fax: 202–366–3081), before the close of business on October 9, 2012 (and October 4, 2012 for non-U.S. citizens). Each person wishing to attend must provide his or her name and country of citizenship. Non-U.S. citizens must also provide date of birth, title or position, and passport or diplomatic ID number, along with expiration date. Each person wishing to make an oral presentation must also specify the amount of time that the presentation is expected to last, his or her organizational affiliation, phone number, and email address. NHTSA will prepare a schedule of presentations. Depending upon the number of persons who wish to make oral presentations and the anticipated length of those presentations, NHTSA may add an additional day or days to the hearing, and/or may limit the length of oral presentations.

The hearing will be held at a site accessible to individuals with disabilities. Individuals who require accommodations, such as sign language interpreters, should contact Ms. Kerry Kolodziej using the contact information in the **FOR FURTHER INFORMATION CONTACT** section above no later than October 4, 2012. A transcript of the proceedings will be placed in the docket for this notice at a later date.

Persons who wish to file written comments should submit them so that they are received by NHTSA no later than October 9, 2012. Information on how to submit written comments to the docket is located under the **ADDRESSES** section of this notice.

Authority: 49 U.S.C. 30120(e); 49 CFR 557.6(d), 557.7; delegations of authority at 49 CFR 1.95(a), 501.2(a)(1), and 49 CFR 501.8.

Issued: September 19, 2012.

Daniel C. Smith,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 2012–23606 Filed 9–24–12; 8:45 am]

BILLING CODE 4910–59–P

[38] NHTSA, Safety Compliance Testing for FMVSS 122, Final Report No. 122–TRC–12–003 (Sept. 19, 2012).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2011–49

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)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2011–49, Master and Prototype and Volume Submitter Plans.

DATES: Written comments should be received on or before November 26, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Master and Prototype and Volume Submitter Plans.

OMB Number: 1545–1674.

Revenue Procedure Number: Revenue Procedure 2011–49.

Abstract: The master and prototype and volume submitter revenue procedure sets forth the procedures for sponsors of master and prototype and volume submitter pension, profit-sharing and annuity plans to request an opinion letter or an advisory letter from the Internal Revenue Service that the form of a master or prototype plan or volume submitter plan meets the requirements of section 401(a) of the Internal Revenue Code. The information requested in sections 5.11, 8.02, 11.02, 12, 14.05 15.02, 18, and 24 of the master and prototype revenue procedure is in addition to the information required to be submitted with Forms 4461 (*Application for Approval of Master or Prototype Defined Contribution Plan*), 4461–A (*Application for Approval of Master or Prototype Defined Benefit Plan*) and 4461–B (*Application for Approval of Master or Prototype or Plan (Mass Submitter Adopting Sponsor)*). This information is needed in order to enable the Employee Plans function of the Service's Tax Exempt and Government Entities Division to issue an opinion letter or an advisory letter.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local or tribal governments.

Estimated Number of Respondents: 325,800.

Estimated Time per Respondent: 3 hour, 15 minutes.

Estimated Total Annual Burden Hours: 1,058,850.

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. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 19, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–23530 Filed 9–24–12; 8:45 am]

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FEDERAL REGISTER

Vol. 77 Tuesday,
No. 186 September 25, 2012

Part II

The President

Proclamation 8867—National POW/MIA Recognition Day, 2012

Federal Register
Vol. 77, No. 186
Tuesday, September 25, 2012

Presidential Documents

Title 3—

The President

Proclamation 8867 of September 20, 2012

National POW/MIA Recognition Day, 2012

By the President of the United States of America

A Proclamation

For more than two centuries, Americans have bravely served our Nation as members of our Armed Forces. Many have made profound sacrifices to uphold the ideals we cherish, carrying wounds that may never fully heal and dark memories that will never fade. Today, we pay solemn tribute to service members who bore war's tragic costs as prisoners of war and those missing in action. We stand with the families who have known the lingering ache of a loved one's uncertain fate. And as a Nation, we reaffirm a most sacred obligation: that we must never forget the men and women who did not come home, and that we must never stop trying to return them to their families and the country they fought to protect.

As long as members of our Armed Forces remain unaccounted for, America will bring our fullest resources to bear in finding them and bringing them home. It is a promise we make not only to the families of our captured and our missing, but to all who have worn the uniform. Our Nation continues to recover the remains of fallen heroes we lost in the Vietnam War, the Korean War, World War II, and other conflicts. And as these patriots are finally laid to rest, we pray their return brings closure and a measure of peace to those who knew and loved them. During this day of recognition, let us honor their sacrifice once more by expressing our deepest gratitude to our service members, our veterans, our military families, and all those who have given so much to keep our country safe.

On September 21, 2012, the stark black and white banner symbolizing America's Missing in Action and Prisoners of War will be flown over the White House; the United States Capitol; the Departments of State, Defense, and Veterans Affairs; the Selective Service System Headquarters; the World War II Memorial; the Korean War Veterans Memorial; the Vietnam Veterans Memorial; United States post offices; national cemeteries; and other locations across our country. We raise this flag as a solemn reminder of our obligation to always remember the sacrifices made to defend our Nation.

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 September 21, 2012, as National POW/MIA Recognition Day. I urge all Americans to observe this day of honor and remembrance with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of September, 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.

[FR Doc. 2012–23770
Filed 9–24–12; 11:15 am]
Billing code 3295–F2–P

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H.R. 6336/P.L. 112–174
To direct the Joint Committee on the Library to accept a statue depicting Frederick Douglass from the District of Columbia and to provide for the permanent display of the statue in Emancipation Hall of the United States Capitol. (Sept. 20, 2012; 126 Stat. 1311)

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