AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 77 Wednesday,

No. 196 October 10, 2012

Pages 61507–61720

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpo@custhelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 77, No. 196

Wednesday, October 10, 2012

Agriculture Department
See Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61569–61570

Air Force Department
NOTICES
Privacy Act; Systems of Records, 61582–61583

Army Department
NOTICES
Privacy Act; Systems of Records; Correction, 61583

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Bureau of Consumer Financial Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61579–61580

Commerce Department
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office
NOTICES
Departmental Performance Review Board Membership, 61571–61572
Office of the Secretary Performance Review Board Membership, 61572

Consumer Product Safety Commission
RULES
Information Disclosure under Section 6(b) of Consumer Product Safety Act; CFR Correction, 61513

Defense Department
See Air Force Department
See Army Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Acquisition Regulation; Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections, 61580–61581
Meetings:
Board of Regents of the Uniformed Services University of the Health Sciences, 61581–61582
U.S. Strategic Command Strategic Advisory Group, 61581

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
International Energy Agency, 61583–61584

Environmental Protection Agency
RULES
Approvals and Promulgations of Air Quality Implementation Plans:
Maryland; 2002 Base Year Emissions Inventory for Washington DC–MD–VA Nonattainment Area, etc., 61513–61515
Exemptions from Requirements of Tolerances:
Alkyl Amines Polyalkoxylates, 61515–61518
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61598–61599
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Trade Secret Claims for Emergency Planning and Community Right-to-Know Act, 61599–61600
Certain New Chemicals; Receipt and Status Information, 61600–61604
Meetings:
Exposure Modeling, 61604–61605
Proposed National Pollutant Discharge Elimination System General Permits:
New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category, 61605–61606

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness Directives:
Bombardier, Inc. Airplanes, 61511–61513
Voluntary Licensing of Amateur Rocket Operations:
Correction; Delay of Effective Date, 61513
PROPOSED RULES
Airworthiness Directives:
DASSAULT AVIATION Airplanes, 61539–61542
The Boeing Company Airplanes, 61542–61559
NOTICES
Requests to Release Airport Properties:
McKellar–Sipes Regional Airport, Jackson, TN, 61653–61654
Smyrna–Rutherford County Airport, Smyrna, TN, 61653

Federal Communications Commission
RULES
Private Land Mobile Radio Rules, 61535–61538

Federal Emergency Management Agency
RULES
Suspension of Community Eligibility, 61518–61519
PROPOSED RULES
Flood Elevation Determinations; Withdrawal:
Fairbanks North Star Borough, AK, and Incorporated Areas, 61559
NOTICES
Major Disaster Declarations:
Oklahoma; Amendment No. 2, 61620

Federal Energy Regulatory Commission
NOTICES
Applications:
FFP Missouri 12, LLC, 61584–61585
FPL Energy Maine Hydro LLC, 61585–61586
Attendance at NYSO Meetings, 61586–61587
Combined Filings, 61587–61592
Complaints:
American Transmission Company LLC v. Midwest Independent Transmission System Operator, Inc., et al., 61592–61593
Arkansas Electric Cooperative Corp., et al. v. Entergy Services, Inc., 61592
New York Association of Public Power v. Niagara Mohawk Power Corporation New York Independent System Operator, Inc., 61593–61594
North American Natural Resources, Inc. v. PJM Interconnection, L.L.C., et al., 61593
Filings:
American Municipal Power, Inc., 61596
Illinois Electric Agency, 61596
Indiana Municipal Power Agency, 61594
Kentucky Municipal Power Agency, 61595–61596
Michael I. Wheatley and Drummond E. Garrison, 61596–61597
Missouri Joint Municipal Electric Utility Commission, 61594–61595
Northern Illinois Municipal Power, 61595
Prairie Power, Inc., 61594
Southern Illinois Power Cooperative, 61595
Petitions for Declaratory Orders:
Avalon Wind, LLC, Avalon Wind 2, LLC, Catalina Solar, LLC, Catalina Solar 2, LLC, et al., 61597
Preliminary Permit Applications:
Liberty University, Inc., 61597–61598
Natural Currents Energy Services, LLC, 61598

Federal Financial Institutions Examination Council
NOTICES
Meetings:
Appraisal Subcommittee, 61606

Federal Highway Administration
NOTICES
Final Federal Agency Actions on Proposed Highways:
California, 61654

Federal Maritime Commission
RULES
Commission's Rules of Practice and Procedure, 61519–61535

Federal Motor Carrier Safety Administration
NOTICES
Qualification of Drivers; Exemption Applications; Diabetes Mellitus, 61655–61656

Federal Railroad Administration
NOTICES
Petitions for Waivers of Compliance, 61656–61657

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 61606–61607
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 61607
Proposals to Engage in or to Acquire Companies Engaged in Permissible Nonbanking Activities, 61607

Fish and Wildlife Service
RULES
Endangered and Threatened Wildlife and Plants:
Determination of Endangered Species Status for the Alabama Pearlshell, Round Ebonyshell, Southern Kidneyshell, and Choctaw Bean, etc., 61664–61719
NOTICES
Draft Comprehensive Conservation Plans and Environmental Assessments:
Patuxent Research Refuge, Prince George's and Anne Arundel Counties, MD, 61624–61626
Meetings:
Sport Fishing and Boating Partnership Council, 61626–61627
Permit Applications:
Endangered Species; Marine Mammals, 61627–61630

Food and Drug Administration
NOTICES
Meetings:
Endocrinologic and Metabolic Drugs Advisory Committee, 61609–61610

Foreign Assets Control Office
NOTICES
Designation of Two Entities Pursuant to Executive Orders, 61658–61659

Foreign Claims Settlement Commission
NOTICES
Meetings; Sunshine Act, 61641

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Helena National Forest; Montana; Blackfoot Travel Plan, 61570–61571

General Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Acquisition Regulation; Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections, 61580–61581

Health and Human Services Department
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61608
Meetings:
Presidential Commission for the Study of Bioethical Issues, 61608–61609

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61610

Homeland Security Department
See Federal Emergency Management Agency

Housing and Urban Development Department
NOTICES
Privacy Act; Systems of Records, 61620–61623

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Ocean Energy Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
American Customer Satisfaction Index Government Customer Satisfaction Surveys, 61623–61624

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61659–61661

Justice Department
See Foreign Claims Settlement Commission
See Justice Programs Office
NOTICES
Lodging of Proposed Consent Decrees, 61640
Lodging of Proposed Consent Decrees under the Clean Air Act, 61640–61641

Justice Programs Office
NOTICES
Meetings:
Federal Advisory Committee on Juvenile Justice, 61641–61642

Land Management Bureau
NOTICES
Proposed Reinstatement of Terminated Oil and Gas Leases:
WYW145566, Wyoming, 61630–61631
WYW145583, Wyoming, 61631
WYW159206, Wyoming, 61630
WYW159617, Wyoming, 61630

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Acquisition Regulation; Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections, 61580–61581
Environmental Impact Statements; Availability, etc.:
Sounding Rockets Program, Poker Flat Research Range, AK, 61642–61643

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts Advisory Panel, 61643–61644
National Council on the Arts, 61643

National Institute of Standards and Technology
NOTICES
Meetings:
Malcolm Baldrige National Quality Award Panel of Judges, 61572–61573

National Institutes of Health
NOTICES
Interagency Coordinating Committee Report; Availability:
Validation of Alternative Methods Evaluation and Recommendations for Identifying Chemical Eye Hazards with Fewer Animals, 61610–61611
Meetings:
Center for Scientific Review, 61614–61615
National Cancer Institute, 61614
National Institute of Environmental Health Sciences, 61613
National Institute of General Medical Sciences, 61612–61613
National Institute on Aging, 61613–61614
National Institute on Minority Health and Health Disparities, 61611–61612

National Oceanic and Atmospheric Administration
PROPOSED RULES
Atlantic Highly Migratory Species:
2013 Atlantic Shark Commercial Fishing Season, 61562–61568
Endangered and Threatened Wildlife:
90-Day Finding on Petition to List Nassau Grouper as Threatened or Endangered under Endangered Species Act, 61559–61562
NOTICES
Draft Report of Science Advisory Board Satellite Task Force; Availability, 61573
Endangered and Threatened Species:
Initiation of 5-Year Review for Kemp's Ridley, Olive Ridley, Leatherback, and Hawksbill Sea Turtles, 61573–61574
Meetings:
National Climate Assessment and Development Advisory Committee, 61574–61575
Takes of Marine Mammals Incidental to Specified Activities:
Abalone Research on San Nicolas Island, CA, 61575–61578

National Park Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Cattle Point Road Relocation, San Juan Island National Historical Park, San Juan County, WA, 61632–61633
Stehekin River Corridor Implementation Plan, Lake Chelan National Recreation Area, North Cascades National Park Service Complex, Chelan County, WA, 61631–61632

National Science Foundation
NOTICES
Meetings:
Advisory Committee For International Science And Engineering, 61644
President's Committee on the National Medal of Science, 61644

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 61644–61645
Withdrawal of Application for an Early Site Permit:
Exelon Generation Company, LLC; Victoria County Station Site, 61645

Ocean Energy Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf, 61633–61639

Patent and Trademark Office
NOTICES
Interim Patent Term Extensions:
ResQPump/ResQPOD ITD, 61579

Presidential Documents
ADMINISTRATIVE ORDERS
Child Soldiers Prevention Act of 2008; Determination (Presidential Determination):
No. 2012–18 of September 28, 2012, 61509
FY 2013 Refugee Admissions Numbers and Authorization of In-Country Refugee Status (Presidential Determination):
No. 2012–17 of September 28, 2012, 61507–61508

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Financial Industry Regulatory Authority, Inc., 61647–61649
ICE Clear Credit LLC, 61649
International Securities Exchange, LLC, 61645–61647
Suspensions of Trading Orders:
Liberty Silver Corp., 61649–61650

Small Business Administration
NOTICES
Disaster Declarations:
Louisiana; Amendment 2, 61651–61652
Louisiana; Amendment 8, 61650
Mississippi; Amendment 1, 61651
Mississippi; Amendment 3, 61650–61651
Oklahoma, 61651–61652
The entire United States and U.S. Territories; Military Reservist Economic Injury Disaster Loan Program, 61650
Utah, 61652

State Department
NOTICES
Determination by the Secretary of State Relating to Iran Sanctions, 61652–61653

Substance Abuse and Mental Health Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 61615–61620

Surface Transportation Board
NOTICES
Abandonment Exemptions:
Indiana Northeastern Railroad Co., Branch and St. Joseph Counties, MI, 61657–61658
Discontinuance of Trackage Rights Exemptions:
Idaho Northern and Pacific Railroad Co., Canyon, Payette and Washington Counties, ID, 61658

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See Surface Transportation Board

Treasury Department
See Foreign Assets Control Office
See Internal Revenue Service
See United States Mint

United States Mint
NOTICES
Prices for American Eagle Silver Proof and Uncirculated Coins and America the Beautiful Five Ounce Silver Uncirculated Coins, 61661

Separate Parts In This Issue

Part II
Interior Department, Fish and Wildlife Service, 61664–61719

Reader Aids
Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Presidential
Determinations:
No. 2012–17 of
September 28,
2012 61507
No. 2012–18 of
September 28,
2012 61509

14 CFR
39.....61511
400.....61513
Proposed Rules:
39 (4 documents) 61539,
61542, 61548, 61550

16 CFR
1101.....61513

40 CFR
52.....61513
180.....61515

44 CFR
64.....61518
Proposed Rules:
67.....61559

46 CFR
502.....61519

47 CFR
90.....61535

50 CFR
17.....61664
Proposed Rules:
223.....61559
224.....61559
635.....61562

Federal Register
Vol. 77, No. 196
Wednesday, October 10, 2012

Presidential Documents

Title 3—

The President

Presidential Determination No. 2012–17 of September 28, 2012

Fiscal Year 2013 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act, and Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act, as Amended

Memorandum for the Secretary of State

In accordance with section 207 of the Immigration and Nationality Act (the ''Act'') (8 U.S.C. 1157), as amended, and after appropriate consultations with the Congress, I hereby make the following determinations and authorize the following actions:

The admission of up to 70,000 refugees to the United States during Fiscal Year (FY) 2013 is justified by humanitarian concerns or is otherwise in the national interest, provided that this number shall be understood as including persons admitted to the United States during FY 2013 with Federal refugee resettlement assistance under the Amerasian immigrant admissions program, as provided below.

The 70,000 admissions numbers shall be allocated among refugees of special humanitarian concern to the United States in accordance with the following regional allocations (provided that the number of admissions allocated to the East Asia region shall include persons admitted to the United States during FY 2013 with Federal refugee resettlement assistance under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, as contained in section 101(e) of Public Law 100–202 (Amerasian immigrants and their family members)):

Africa	12,000
East Asia	17,000
Europe and Central Asia	2,000
Latin America/Caribbean	5,000
Near East/South Asia	31,000
Unallocated Reserve	3,000

The 3,000 unallocated refugee numbers shall be allocated to regional ceilings, as needed. Upon providing notification to the Judiciary Committees of the Congress, you are hereby authorized to use unallocated admissions in regions where the need for additional admissions arises.

Additionally, upon notification to the Judiciary Committees of the Congress, you are further authorized to transfer unused admissions allocated to a particular region to one or more other regions, if there is a need for greater admissions for the region or regions to which the admissions are being transferred. Consistent with section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, I hereby determine that assistance to or on behalf of persons applying for admission to the United States as part of the overseas refugee admissions program will contribute to the foreign policy interests of the United States and designate such persons for this purpose.

Consistent with section 101(a)(42) of the Act (8 U.S.C. 1101(a)(42)), and after appropriate consultation with the Congress, I also specify that, for FY 2013, the following persons may, if otherwise qualified, be considered

refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

a. Persons in Cuba

b. Persons in Eurasia and the Baltics

c. Persons in Iraq

d. In exceptional circumstances, persons identified by a United States Embassy in any location

You are authorized and directed to report this determination to the Congress immediately and to publish it in the *Federal Register*.

THE WHITE HOUSE,
Washington, September 28, 2012.

[FR Doc. 2012–25035
Filed 10–9–12; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2012–18 of September 28, 2012

Determination With Respect to the Child Soldiers Prevention Act of 2008

Memorandum for the Secretary of State

Pursuant to section 404 of the Child Soldiers Prevention Act of 2008 (CSPA) (title IV, Public Law 110–457), I hereby determine that it is in the national interest of the United States to waive the application of the prohibition in section 404(a) of the CSPA with respect to Libya, South Sudan, and Yemen; and further determine that it is in the national interest of the United States to waive in part the application of the prohibition in section 404(a) of the CSPA with respect to the Democratic Republic of the Congo, to allow for continued provision of International Military Education and Training funds and nonlethal Excess Defense Articles, and the issuance of licenses for direct commercial sales of U.S. origin defense articles; and I hereby waive such provisions accordingly.

You are authorized and directed to submit this determination to the Congress, along with the accompanying Memorandum of Justification, and to publish the determination in the *Federal Register*.

THE WHITE HOUSE,
Washington, September 28, 2012.

[FR Doc. 2012–25038
Filed 10–9–12; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 77, No. 196
Wednesday, October 10, 2012

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0588; Directorate Identifier 2012–NM–017–AD; Amendment 39–17210; AD 2012–20–04]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This AD was prompted by reports of chafing between the wire harness along the wing leading edge and the inboard end rib of the wing leading edge due to insufficient clearance. This AD requires inspecting the wire harness along the leading edge for chafing damage, and repair if necessary; and relocating and installing new anchor nuts. We are issuing this AD to detect and correct chafing damage to the wire harness along the wing leading edge, which if not corrected, could lead to the loss of the airframe de-icing system, and could become a possible ignition source causing fire.

DATES: This AD becomes effective November 14, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 14, 2012.

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

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7301; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 5, 2012 (77 FR 33125). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> There have been several in-service reports of chafing between the wire harness along the wing leading edge and the wing leading edge inboard end rib. The chafing condition was found to be caused by insufficient clearance between the wire harness and the structure. Chafing and damage to this wire harness could lead to the loss of the airframe de-icing system, and could be a possible ignition source causing fire and the subsequent loss of the aeroplane.
>
> This [Transport Canada Civil Aviation] Airworthiness Directive (AD) mandates [a detailed] inspection of the wire harness along the leading edge [for chafing damage, and repair if necessary] and the relocation [and installation of new] anchor nut[s].

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

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Request To Include Latest Revision of Service Information

Horizon Air (Horizon) requested that we revise the proposed rule (77 FR 33125, June 5, 2012) to reflect the latest revision of the service information. Horizon pointed out that Bombardier Service Bulletin 84–57–24, dated September 30, 2011, referenced in that NPRM contained an error in a work step that needed to be corrected.

We agree. Bombardier has issued Service Bulletin 84–57–24, Revision A, dated August 6, 2012. This service bulletin was revised to correct a reference to a figure in a work step. We have changed this final rule to reference Bombardier Service Bulletin 84–57–24, Revision A, dated August 6, 2012, throughout. We have also added paragraph (i) of this final rule to give credit for actions performed before the effective date of this AD using Bombardier Service Bulletin 84–57–24, dated September 30, 2011.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 33125, June 5, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 33125, June 5, 2012).

Costs of Compliance

We estimate that this AD will affect 83 products of U.S. registry. We also estimate that it will take about 9 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $63,495, or $765 per product.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations

for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 33125, June 5, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–20–04 Bombardier, Inc.: Amendment 39–17210. Docket No. FAA–2012–0588; Directorate Identifier 2012–NM–017–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 14, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 through 4382 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by reports of chafing between the wire harness along the wing leading edge and the inboard end rib of the wing leading edge due to insufficient clearance. We are issuing this AD to detect and correct chafing damage to the wire harness along the wing leading edge, which if not corrected, could lead to the loss of the airframe de-icing system, and could become a possible ignition source causing fire.

(f) Compliance

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

(g) Inspection and Repair

Within 3,000 flight hours or 18 months after the effective date of this AD, whichever occurs first: Perform a detailed inspection for chafing damage of the wire harness at the leading edge, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–24, Revision A, dated August 6, 2012. If any chafing damage is found: Before further flight, repair in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–24, Revision A, dated August 6, 2012.

(h) Installation of New Anchor Nuts

Within 3,000 flight hours or 18 months after the effective date of this AD, whichever occurs first: Relocate and install new anchor nuts on the leading edge, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–57–24, Revision A, dated August 6, 2012.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–57–24, dated September 30, 2011.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

(1) Refer to MCAI Canadian Airworthiness Directive CF–2012–05, dated January 13, 2012; and Bombardier Service Bulletin 84–57–24, Revision A, dated August 6, 2012; for related information.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 84–57–24, Revision A, dated August 6, 2012.

(ii) Reserved.

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

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton,

WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on September 27, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24523 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 400

[Docket No. FAA–2012–0318; Notice No. 400–4]

RIN 2120–AK16

Voluntary Licensing of Amateur Rocket Operations; Correction; Delay of Effective Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; correction; delay of effective date.

SUMMARY: This action delays the effective date for a direct final rule that was published on August 22, 2012. In that rule, the FAA amends the scope of its regulations to allow launch operators that conduct certain amateur rocket launches an opportunity to voluntarily apply for a commercial space transportation license or experimental permit. The FAA has received several adverse comments to this rule, and delays the effective date to allow time for adequate analysis and a final determination. This document also corrects the regulatory identification number on the original publication.

DATES: The effective date for the direct final rule published on August 22, 2012, was scheduled to be October 9, 2012, and is delayed until November 8, 2012.

FOR FURTHER INFORMATION CONTACT: For technical questions, contact Shirley McBride, Senior Transportation Industry Analyst, Regulations and Analysis Division, AST–300, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7470; facsimile (202) 267–5463; email *Shirley.McBride@faa.gov.* For legal questions, contact Laura Montgomery, Senior Attorney for Commercial Space Transportation, Office of the Chief Counsel, Regulations Division, AGC–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3150; facsimile (202) 267–7971, email *laura.montgomery@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 22, 2012, the FAA published the direct final rule entitled, ''Voluntary Licensing of Amateur Rocket Operations'' (77 FR 50584). In this rule, the FAA is amending the scope of its regulations to allow launch operators that conduct certain amateur rocket launches an opportunity to voluntarily apply for a commercial space transportation license or experimental permit. This rule received 4 adverse comments prior to comment period closing on September 21, 2012. The rule contained the effective date of October 9, 2012.

Correction

The original publication contained an incorrect regulatory identification number (RIN). This document contains the correct RIN 2120–AK16.

Reason for Delay of Effective Date

A direct final rule is based on the Administrative Procedure Act's good cause exception to prior notice and comment procedures, 5 U.S.C. 553. This exception is used where we have found that prior public comment procedure may be unnecessary because adverse comments are not expected. In determining whether an adverse comment is significant enough to end a rulemaking, we consider whether the comment would warrant a substantive response in a notice of proposed rulemaking (NPRM).

The effective date of a direct final rule is normally a minimum of 30 calendar days after the end of the comment period. This rule published with an effective date of 15 calendar days after the end of the comment period to accommodate NASA's deadline in funding licensed launches. However, we received 4 substantive comments that require further analysis and determination. The FAA needs additional time to address the comments received and decide on the appropriate action.

Conclusion

Accordingly, the effective date for Notice No. 400–4 is delayed until November 8, 2012.

Issued in Washington, DC, October 4, 2012.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2012–25021 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1101

Information Disclosure Under Section 6(b) of the Consumer Product Safety Act

CFR Correction

■ In Title 16 of the Code of Federal Regulations, Part 1000 to End, revised as of January 1, 2012, on page 147, in § 1101.25 (a) and (b), the words ''5 working'' are corrected to read ''5''.

[FR Doc. 2012–25016 Filed 10–9–12; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2010–0140; FRL–9735–6]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; The 2002 Base Year Emissions Inventory for the Washington DC–MD–VA Nonattainment Area for the 1997 Fine Particulate Matter National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory portion of the Maryland State Implementation Plan (SIP) revision submitted by the State of Maryland, through the Maryland Department of the Environment (MDE), on April 3, 2008. The emissions inventory is part of the April 3, 2008 SIP revision that was submitted to meet nonattainment requirements related to Maryland's portion of the Washington DC–MD–VA nonattainment area (hereafter referred to as Maryland Area or Area) for the 1997 $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) SIP. EPA is approving the 2002 base year $PM_{2.5}$ emissions inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on November 9, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2010–0140. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On July 20, 2012 (77 FR 42686), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of the 2002 base year emissions inventory portion of the Maryland SIP revision. The formal SIP revision (#08–06) was submitted by the State of Maryland on April 3, 2008.

II. Summary of SIP Revision

The 2002 base year emissions inventory submitted by MDE on April 3, 2008 includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_X), volatile organic compounds (VOCs), $PM_{2.5}$, coarse particles (PM_{10}), ammonia (NH_3), and sulfur dioxide (SO_2). EPA has reviewed the results, procedures and methodologies for the base year emissions inventory submitted by MDE. The year 2002 was selected by MDE as the base year for the emissions inventory per 40 CFR 51.1008(b). A discussion of the emissions inventory development as well as the emissions inventory can be found in Appendix B of the April 3, 2008 SIP submittal and in the NPR. Specific requirements of the base year inventory and the rationale for EPA's action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving the 2002 base year $PM_{2.5}$ emissions inventory as a revision to the Maryland SIP.

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 December 10, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to the $PM_{2.5}$ 2002 base year emissions inventory portion of the Maryland SIP 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, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 13, 2012.

W.C. Early,

Acting, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding at the end of the table an entry for ''2002 Base Year Emissions Inventory for the 1997 fine particulate matter ($PM_{2.5}$) standard'' to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) EPA-approved nonregulatory and quasi-regulatory material.

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
2002 Base Year Emissions Inventory for the 1997 fine particulate matter ($PM_{2.5}$) standard.	Maryland portion of the Washington DC–MD–VA 1997 $PM_{2.5}$ nonattainment area.	4/3/08	10/10/12 [*Insert page number where the document begins*].	§ 52.1075(l)

■ 3. In § 52.1075, paragraph (l) is added to read as follows:

§ 52.1075 Base year emissions inventory.

* * * * *

(l) EPA approves as a revision to the Maryland State Implementation Plan the 2002 base year emissions inventory for the Maryland portion of the Washington DC–MD–VA 1997 fine particulate matter ($PM_{2.5}$) nonattainment area submitted by the Maryland Department of Environment on April 3, 2008. The 2002 base year emissions inventory includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_X), volatile organic compounds (VOCs), $PM_{2.5}$, coarse particles (PM_{10}), ammonia (NH_3), and sulfur dioxide (SO_2).

[FR Doc. 2012–24645 Filed 10–9–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0949; FRL–9361–7]

Alkyl Amines Polyalkoxylates; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends the exemption from the requirement of a tolerance for residues alkyl amines polyalkoxylates under 40 CFR 180.920 and 40 CFR 180.930 to include the additional Chemical Abstract Service Registry Number (CAS Reg. No.) 1266162–49–5. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an amendment to an existing requirement of a tolerance.

DATES: This regulation is effective October 10, 2012. Objections and requests for hearings must be received on or before December 10, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2011–0949 is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Fertich, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–8560; email address: *fertich.elizabeth@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0949 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 10, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any CBI) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-

CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0949, by one of the following methods:

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

II. Petition for Exemption

In the **Federal Register** of March 14, 2012 (77 FR 15012) (FRL–9335–9), EPA issued a notice pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 1E7931) by BASF Corporation, 100 Campus Drive; Florham Park, NJ 07932. The petition requested that 40 CFR 180.920 and 180.930 be amended by modifying an exemption from the requirement of a tolerance for residues of N,N-Bis-α-ethyl-ω-hydroxypoly(oxy-1,2-ethanediyl) C8–C18 saturated and unsaturated alkylamines; the poly(oxy-1,2-ethanediyl) content is 2–60 moles (CAS Reg. Nos. 10213–78–2, 25307–17–9, 26635–92–7, 26635–93–8, 288259–52–9, 58253–49–9, 61790–82–7, 61791–14–8, 61791–24–0, 61791–26–2, 61791–31–9, 61791–44–4, 68155–33–9, 68155–39–5, 68155–40–8,70955–14–5, 73246–96–5); herein referred to as alkyl amines polyalkoxylates. Specifically, the petition requested that the exemption also include the alkyl amines polyalkoxylate described by CAS Reg. No. 1266162–49–5. That notice referenced a summary of the petition prepared by BASF Corporation, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

In this petition, BASF Corporation claims that the chemical represented by CAS Reg. No. 1266162–49–5 (poly(oxy-1,2-ethandiyl), α,α'-[[(2-propylheptyl)imino]di-2,1-ethanediyl]bis[ω-hydroxy-) is covered by the published tolerance exemption for alkyl amines polyalkoxylates and that no further data or review is required to amend the existing tolerance exemption to include the additional CAS Reg. No.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert ingredient in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

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

The Agency agrees with the petitioner that CAS Reg. No. 1266162–49–5 is an alkyl amine polyalkoxylate similar to the other alkyl amine polyalkoxylates present in the exemption for N,N-Bis-α-ethyl-ω-hydroxypoly(oxy-1,2-ethanediyl) C8–C18 saturated and unsaturated alkylamines; the poly(oxy-1,2-ethanediyl) content is 2–60 moles (CAS Reg. Nos. 10213–78–2, 25307–17–9, 26635–92–7, 26635–93–8, 288259–52–9, 58253–49–9, 61790–82–7, 61791–14–8, 61791–24–0, 61791–26–2, 61791–31–9, 61791–44–4, 68155–33–9, 68155–39–5, 68155–40–8, 70955–14–5, 73246–96–5). In 2009, in establishing the exemption for the alkyl amine polyalkoxylates, EPA assessed the safety of the alkyl amine polyalkoxylates generally using worst case exposure assumptions. (74 FR 28616) (FRL–8418–6). EPA concluded that that assessment showed that exempting the alkyl amine polyalkoxylates from the requirement from a tolerance would be safe. Inclusion of chemical described by the CAS Reg. No. 1266162–49–5 in the risk assessment for the alkyl amine polyalkoxylates would in no way alter that prior risk assessment given the generic findings on toxicity and the worst case exposure assumptions used in that risk assessment. Accordingly, based on the findings in that earlier rule, EPA has determined that there is a reasonable certainty that no harm to any population subgroup, including infants and children, will result from aggregate exposure to alkyl amine polyalkoxylates, including the chemical described by the CAS Reg. No.

1266162–49–5, under reasonably foreseeable circumstances. Therefore, the amendment of an exemption from tolerance under 40 CFR 180.920 and 180.930 for residues of alkyl amine polyalkoxylates to include the chemical described by the CAS Reg. No. 1266162–49–5 is safe under FFDCA section 408.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established an MRL for alkyl amine polyalkoxylates.

VI. Conclusions

Therefore, the exemption from the requirement of a tolerance under 40 CFR 180.920 and 180.930 for alkyl amine polyalkoxylates is amended to include CAS Reg. No. 1266162–49–5.

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 28, 2012.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.920, the table is amended by revising the following inert ingredient to read as follows:

§ 180.920 Inert ingredients use pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* *	* *
N,N-Bis-α-ethyl-ω-hydroxypoly(oxy-1,2-ethanediyl) C8–C18 saturated and unsaturated alkylamines; the poly(oxy-1,2-ethanediyl) content is 2–60 moles (CAS Reg. Nos. 10213–78–2, 25307–17–9, 26635–92–7, 26635–93–8, 288259–52–9, 58253–49–9, 61790–82–7, 61791–14–8, 61791–24–0, 61791–26–2, 61791–31–9, 61791–44–4, 68155–33–9, 68155–39–5, 68155–40–8,70955–14–5, 73246–96–5, 1266162–49–5).	Not to exceed 25% in herbicide formulations and 10% in insecticide and fungicide formulations.	Surfactants, related adjuvants of surfactants.

Inert ingredients			Limits		Uses	
*	*	*	*	*	*	*

■ 3. In § 180.930, the table is amended by revising the following inert ingredient to read as follows:

§ 180.930 Inert ingredients applied to animals; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
*	*	*
N,N-Bis-α-ethyl-ω-hydroxypoly(oxy-1,2-ethanediyl) C8–C18 saturated and unsaturated alkylamines; the poly(oxy-1,2-ethanediyl) content is 2–60 moles (CAS Reg. Nos. 10213–78–2, 25307–17–9, 26635–92–7, 26635–93–8, 288259–52–9, 58253–49–9, 61790–82–7, 61791–14–8, 61791–24–0, 61791–26–2, 61791–31–9, 61791–44–4, 68155–33–9, 68155–39–5, 68155–40–8,70955–14–5, 73246–96–5, 1266162–49–5).	Not to exceed 25% in herbicide formulations and 10% in insecticide and fungicide formulations.	Surfactants, related adjuvants of surfactants
*	*	*

[FR Doc. 2012–24776 Filed 10–9–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8093]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: FEMA has scheduled one community for suspension because of its failure to adopt compliant floodplain management regulations under the National Flood Insurance Program (NFIP). If documentation is received from the community before the effective suspension date, indicating it has brought its floodplain management program into compliance with the NFIP requirements, FEMA will withdraw the suspension.

DATES: *Effective Dates:* The effective date of the community's scheduled suspension is the date listed in the fourth column of the following table.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Federal Insurance and Mitigation Administration, 1800 South Bell Street Arlington, VA 20598–3072, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance that is generally not otherwise available. In return, communities agree to adopt and implement local floodplain management regulations that contribute to protecting lives and reducing the risk of property damage from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body adopts adequate floodplain management measures with effective administration and enforcement processes.

The community listed in this notice currently has floodplain management regulations that are scheduled to lapse October 31, 2012. If the regulations lapse as scheduled, the community will no longer meet the NFIP requirements set forth at 44 CFR Part 59 *et seq.* Under 44 CFR 59.24(d), a community will be suspended from the NFIP for repealing its floodplain management regulations, allowing its regulations to lapse or amending its regulations so that they no longer meet the minimum requirements. Accordingly, FEMA is suspending the City of Philadelphia, Philadelphia County, Pennsylvania (''the City'') on the effective date in the fourth column of the table. As of that date, the purchase of new flood insurance policies or the renewal of existing flood insurance policies under the NFIP will no longer be available.

FEMA will not suspend the City; however, if the community submits the documentation required by 44 CFR 59.24(d) to show that it has corrected the deficiencies and remedied the violations identified in the Suspension letter to the maximum extent possible. This documentation must be received by FEMA before the actual suspension date. If the City successfully demonstrates its compliance with NFIP regulations, FEMA will continue its eligibility for the sale of NFIP insurance. In the interim, if you wish to determine whether FEMA has suspended the City on the suspension date, please contact the FEMA Region III office at (215) 931–5532. Additional information may also be found at *http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/suspension.shtm.*

FEMA identified the special flood hazard areas (SFHAs) in this community by publishing a Flood Insurance Rate Map. The effective date of this map is indicated in the last column of the table. By law, no Federally regulated entity may provide financial assistance for acquisition or construction purposes for property located in a SFHA unless the community in which the property is located is participating in the NFIP (42 U.S.C. 4106(a)). The prohibition against certain types of Federal disaster assistance also becomes effective for the City on the date shown in the fourth column (42 U.S.C. 4106(b)).

The Administrator finds that notice and public comment procedure under 5 U.S.C. 553(b) is impracticable and unnecessary because the community listed in this final rule has been adequately notified. The community received a Letter from FEMA Region III Administrator on March 2, 2012, advising the City it must submit compliant ordinance by May 31, 2012. The city submitted its ordinance; however, it has a sunset clause dated for

October 31, 2012. The City must produce adopted, compliant and signed floodplain management regulations without a sunset clause before the scheduled suspension date, November 1, 2012.

FEMA addressed these notifications to the Mayor of the City Council indicating that we will suspend the City unless the City takes the required corrective actions before the scheduled suspension date. Because we have made these notifications, this final rule may take effect immediately on November 1, 2012.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The community listed no longer complies with the statutory requirements, and after the effective date, flood insurance will no longer be available in the community unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.,* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State	Location	Community No.	Date certain Federal assistance no longer available in special flood hazard area and the sale of flood insurance no longer available in the community	Current effective map date
Region III				
Pennsylvania	Philadelphia, City of, Philadelphia County.	420757	November 1, 2012	January 17, 2007.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: September 27, 2012.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–24853 Filed 10–9–12; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[Docket No. 11–05]

RIN 3072–AC43

Commission's Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission revises its rules of practice and procedure to update and clarify the rules and to reduce the burden on parties to proceedings before the Commission. The Commission also amends the regulation with respect to its former employees to reflect changes in a relevant statute and the regulation for filing of documents containing confidential materials.

DATES: Effective: November 12, 2012.

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001, Phone: (202) 523–5725, Email: *secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 1, 2012, the Federal Maritime Commission (Commission) published a Notice of Proposed Rulemaking in the **Federal Register** proposing to revise Subparts E and L of the Commission's Rules of Practice and Procedure. 77 FR 12528. The Notice was in continuance of the Commission's efforts to modernize its rules for proceedings before the Commission and to reduce the burden on parties to proceedings before the Commission.

II. Comments

Two comments were received by the Commission from Winston & Strawn (Winston) and Cozen O'Connor (Cozen), law firms that have practiced before the Commission for many years. The Commission has reviewed these comments and adopts some recommendations.

Winston & Strawn's Comments

Winston opposes reduction of the time limit for replies to non-dispositive motions from 14 days to 7 days stating that it is ''unnecessary, unfair and unduly burdensome'' on attorneys who handle many cases and travel as part of their practice. Winston believes that it will do little to shorten the duration of cases and there is no evidence that the present period is responsible for any material delay in Commission proceedings. Winston also opposes the proposed 30 and 15 page limits for dispositive motions and replies, respectively, on the ground that such limits will severely restrict the ability of parties to make their case, particularly those involving complex issues. Winston suggests that no page limits be imposed on non-dispositive motions and that the same limit as exceptions, i.e., 50 pages, be imposed for dispositive motions. Winston also opposes the proposed limits on discovery, arguing such a limit would reduce access to evidence. Winston believes that the proposed limits of 20 depositions and 50 interrogatories are ''woefully

inadequate'' and unnecessary particularly in major disputes. Winston believes the Commission should maintain its unlimited deposition and interrogatory rule with recourse to a protective order if necessary. Winston requests that the Commission completely abandon its no-reply-to-a-reply rule and permit replies to replies. This change, Winston argues, will address concerns about parties raising arguments for the first time in a reply to which the opposing party has had no opportunity to respond. Winston also suggests that proposed § 502.203(b)(3) be clarified to state that a party may record a deposition using stenographic and ''video recordation.'' Lastly, Winston requests that the Commission take practical steps to speed the issuance of initial decisions, but does not offer recommendations to achieve such a result.

Independent of Winston's comments, the Commission previously considered the issues raised by Winston with respect to limits on discovery, page limitations, and time limits for replies and believes that the proposed rules reasonably accommodate the needs and requirements of the Commission and the parties to proceedings before the Commission. The Commission believes that the proposed deposition and interrogatory limitations reflect an accommodation recognizing the difference between federal court proceedings and the nature of Commission proceedings which tend to be heard mainly on a written or documentary record.

With respect to the time limit for replies to non-dispositive motions, in view of the new duty to confer prior to filing a non-dispositive motion, the responding party will have advance notice of the motion and the issues raised in the motion. Further, the nature of the subject matter typically involved in such motions often may require expedited consideration. To the extent deviation from such requirements becomes necessary in individual cases, the presiding officer has the requisite authority to issue appropriate orders. The same is true as to the proposed page limitations. Therefore, the Commission does not believe further modification to the proposed rule is needed.

The Commission also believes it unnecessary to further clarify that § 502.203 permits recording depositions both by stenographic and ''video recordation.'' Revised § 502.203 mirrors Federal Rules of Civil Procedure (FRCP) 30(b)(3)(A), and the conjunction ''or'' in the proposed rule is meant to operate inclusively.

Cozen O'Connor's Comments

Cozen advocates revising proposed § 502.66 consistent with FRCP 15(a)(1), to permit amendments to pleadings as a matter of right within 21 days of service of the original pleading with a response required within the later of the time left to respond to the original pleading or 14 days after the amended pleading. Cozen supports proposed § 502.72 permitting voluntary dismissal of a complaint, and suggests addition of a provision similar to FRCP 41 also permitting voluntary dismissal of counterclaims, crossclaims, and third-party complaints. Cozen also suggests that when a complainant voluntarily dismisses a complaint and refiles against the same respondent based on the same issues, liability be imposed against the complainant for the respondent's costs in responding to the first complaint. Cozen further recommends that the Commission confirm that a voluntary dismissal under proposed § 502.72 would no longer require Commission approval of any settlement as part of the dismissal.

Cozen supports the limitations on depositions and interrogatories, but believes the Commission should set the limit for depositions at 10, as provided in the FRCP, rather than 20 as proposed by the Commission, and interrogatories at 35, as opposed to 25 as provided in the FRCP or 50 as proposed by the Commission. Cozen further proposes sanctions for failure to appear at scheduled depositions. In addition, Cozen requests that the time limit on discovery be extended from 120 to 180 days. Cozen is concerned that the Commission's proposed § 502.201(b) would require initial disclosures to be made prior to the proposed § 502.201(h) conference; that the time period for disclosure under the Commission's proposed rules would be considerably shorter than those permitted under the FRCP; and that the parties are not permitted to stipulate to a longer period. Cozen suggests revising the proposed rules to require the discovery conference to occur within 21 days after the answer is filed, to require initial disclosures to be made at the earlier of 90 days after the respondent's appearance or 75 days after the filing of the answer, and to permit the parties to stipulate to a longer period for disclosures. Cozen also suggests various clarifications within proposed Rules 201 through 203 which are addressed below.

The Commission does not believe it should adopt the suggestion to allow amendment of pleadings as a matter of right. Although FRCP 15(a)(1) allows amendment to pleadings as of right in the federal district courts, the Commission's proceedings operate on specific time schedules not analogous to federal court cases. The Commission believes that such a rule could create unnecessary time pressure and further delays. The presiding officer has the requisite authority to permit amendments to pleadings when necessary.

The Commission adopts Cozen's request that the Commission modify proposed § 502.72 consistent with FRCP 41(c) to specify that voluntary dismissal also applies to counterclaims, crossclaims, and third-party claims inasmuch as this was the intent of the proposal.

The Commission believes that it cannot adopt Cozen's suggestion that complainants who voluntarily dismiss cases pay respondents' costs should complainant bring the case again, because the Commission lacks authority under the Shipping Act of 1984 to award such costs. Similarly, the Commission cannot award sanctions as proposed by Cozen for failure to attend a deposition.

As noted, in addition to supporting proposed § 502.72 allowing voluntary dismissals by a complainant, Cozen requests that the Commission confirm that this change was also intended to eliminate the requirement that settlement between private litigants be approved as a condition of dismissal. The Commission did not intend to eliminate the requirement for review of settlement when it proposed the new rule and is not changing its long-standing policy at this time.

As stated above in response to Winston's comments on limits on depositions and interrogatories, the Commission is not revising the limitations set out in the proposed rule.

The Commission believes there is merit to Cozen's suggestion that the 120-day proposed discovery period be increased. Cozen suggests that the time period for discovery be increased an additional 60 days for a total of 180 days for discovery. Cozen has substantial practical experience in this area and its concern comports with the Commission's own understanding of the time generally needed to complete discovery. However, while the Commission agrees that additional time is required, it does not agree that an additional 60 days is needed. Given that the Commission has proposed changing the discovery deadline to run from the service of an answer as opposed to the service of a complaint, ensuring that parties are present in the case to conduct discovery, the Commission increases the proposed 120-day period to 150 days from the date of service of

an answer. This should facilitate completion of discovery within 6 months of the start of a proceeding, and ensure sufficient time for briefing and preparation of an initial decision within the one year deadline. The 150-day discovery period will provide a more realistic and feasible time frame, and because it will eliminate a great number of requests for extension of the discovery deadline, it should facilitate timely conclusion of proceedings.

The Commission does not adopt Cozen's suggestions regarding delaying the discovery conference or submission of initial disclosures as the suggestion is not compatible with the time frame for completing discovery under the Commission's rules, a time limitation that does not exist in the federal rules. As to the question of stipulating to a longer period for initial disclosures, the rule does provide for the possibility of stipulation. However, the purpose for requiring initial disclosures is to facilitate and encourage focused and expeditious use and completion of discovery. Moreover, § 502.201(l) will require that ''* * * a stipulation extending the time for any form of discovery must have presiding officer's approval if it would interfere with the time set for completing discovery * * *''

The Commission further agrees that proposed § 502.201(k) should be modified to clarify that the obligation to supplement responses also applies to expert witness information under § 502.201(d). However, the Commission does not adopt Cozen's suggestion that existing § 502.202(e), which gives parties the power to stipulate to the person before whom a deposition may be taken, be retained. Proposed § 502.202 mirrors FRCP 28 which does not allow such a stipulation. Retention of current § 502.202(e) would also conflict with the provisions in proposed § 502.202(c) disqualifying certain individuals. The Commission is unaware of any compelling reason to vary from the FRCP requirements in this instance.

III. Discussion

After consideration of the comments, the Commission has determined to adopt the proposed Rules as final with a few modifications adopting some of the comments' suggestions.

a. Rule 5

Although not included in the Notice of Proposed Rulemaking, the Commission is amending § 502.5(b) to require that when a confidential filing is submitted, an original and two copies of a public version excluding the confidential materials be filed. Currently, only an original and one copy is required. Since some submitted filings are extensive and not easy to reproduce, the Commission has found one copy to be insufficient for proper maintenance of the docket.

b. Rule 32

Although not included in the Notice of Proposed Rulemaking, the Commission also amends § 502.32 to reflect changes in a relevant statute. Current § 502.32(c) is designed to expedite consultation with the Director of the Office of Government Ethics, as required by section 207(j) of Title 18 of the United States Code. Subsection j of 18 U.S.C. 207 was struck from section 207 in 1989 (Pub. L. 101–194 Ethics Reform Act) and replaced with a section on exceptions. Therefore, the statutory authority for the Commission to hold a disciplinary hearing and sanction a former officer or employee as laid out in 46 CFR 502.32(c)(2)–(11) and (d) no longer exists. Additionally, the requirement in 46 CFR 502.32(c)(2)(i) for the Chairman to report to the Director of the Office of Government Ethics (OGE) and to the Criminal Division, Department of Justice substantiated information regarding possible violations of 18 U.S.C. 207 has been superseded by the reporting requirements contained in the OGE regulations at 5 CFR 2641.103(a) and 5 CFR 2638.603 in addition to 28 U.S.C. 535. The Commission notes that 5 CFR 2641.103(a) specifically states that the criminal and civil enforcement of the provisions of 18 U.S.C. 207 is the responsibility of the Department of Justice. Reflecting the statutory change, the Commission revises paragraph (c) of section 502.32.

c. Subpart E—Proceedings; Pleadings; Motions; Replies

The revision to Subpart E is intended both to streamline the current rules for ease of use by the public and to provide parties to Commission proceedings with greater clarity as to the requirements pertaining to the conduct of proceedings, specifically motions, intervention, and dismissals. Also as described below, the revision sets out a new procedure for the conduct of Commission-initiated enforcement proceedings. Minor changes are also made to reorder sections and enhance clarity generally.

Rule 62 Private Party Complaints for Formal Adjudication

Section 502.62 governs the filing of private party complaints for formal adjudication and has been revised for clarification and modernized to request email addresses for parties and their representatives. Rules related to the filing of answers to complaints (currently found at 46 CFR 502.64) and statutes of limitations (currently found at 46 CFR 502.63) have been consolidated into § 502.62. Revised § 502.62 explains more fully what is required in an answer and also provides for the filing of counterclaims, crossclaims, and third-party complaints. Commission rules have not previously addressed these types of claims, though they have been filed and adjudicated. Revised § 502.62 references decisions on default for failure to answer a complaint, counterclaim, crossclaim, or third-party complaint. Administrative Law Judges (ALJs) have adjudicated decisions on default in the past in various fashions, but the final rule better defines when an initial decision on default may be issued. The new default rule is discussed in greater detail below.

Exhibit 1 to Subpart E currently contains a complaint form and a checklist of information required when filing a complaint. The final rule removes this form from the rules as the Commission plans to publish a revision of this form on its Web site along with other forms and further helpful information for complaint filers, with information oriented particularly to *pro se* filers.

Rule 63 Commission Enforcement Action

Section 502.63 provides a new procedure at the initial stages of Commission enforcement proceedings designed to more efficiently utilize Commission resources, provide for expeditious resolution of cases where a respondent defaults or otherwise chooses not to appear, and ensures due process to respondents. Under current procedure, the Commission issues an Order of Investigation and Hearing that advises respondents of the issues under investigation, designates the Commission's Bureau of Enforcement (BOE) as a party to the proceeding to prosecute the case, and assigns the matter to the Office of Administrative Law Judges to conduct the proceeding and issue an initial decision. There is no requirement in the current procedural rules that a respondent answer or otherwise respond to the Order. Typically, the presiding officer issues an initial order to the parties followed by a scheduling order setting forth dates by which certain aspects of the case must be completed and generally setting a schedule for the proceeding. It is not uncommon, however, for a respondent to fail to appear or to initially appear

and then cease participating in the case. Under these procedures, there are no Commission rules to address a respondent's failure to appear or comply with procedural requirements. Instead, the presiding officer is required to undertake a number of sequential procedural steps to put the case in a posture where an initial decision can be issued. These necessary procedural steps can consume several months. For example, a motion to compel responses to discovery must be filed after the responses were due; followed by a time period for respondent to reply to the motion; followed by a time period for the ALJ to issue an order; followed by another time period for respondent's compliance; followed by BOE's motion for sanctions for failure to comply with the ALJ's order; followed by a period of time for respondent's reply; followed by issuance of the ALJ's order. Obviously, this process is time consuming and wasteful of limited resources in prosecuting a case which may well turn out to be an uncontested or a default case. The new rule for default is discussed in greater detail below.

Under the revised rule, an enforcement action will continue to be instituted upon the Commission's issuance of an Order of Investigation and Hearing. The Order of Investigation and Hearing will set forth specific facts alleged by BOE supporting an assertion that the respondent has violated the Shipping Act, require an answer from the respondent, and identify the consequences of failure to answer or otherwise respond to the Order. Such a procedure is employed by various other federal agencies in conducting investigative adjudications including the Federal Trade Commission, Commodity Futures Trading Commission, Department of Housing and Urban Development, and the new Consumer Financial Protection Bureau (interim final rules). The Order of Investigation and Hearing will also identify the name and address of each respondent subject to the Order; recite the legal authority and jurisdiction for instituting the proceeding including designation of the statutory provisions and/or Commission regulations alleged to have been violated; include a clear and concise statement of facts sufficient to inform the respondent of the acts or practices alleged to constitute a violation of the law; include a statement of the civil penalties, cease and desist order, and any other appropriate penalty that may be imposed; specify the date or time period by or in which respondent must file an answer with the Commission and serve BOE; and a statement of the consequences for failure to file an answer.

The final rule contains a separate provision addressing the contents of an answer to an Order of Investigation and Hearing. The rule requires that a respondent must file an answer with the Commission and serve the answer on BOE within 25 days after being served with the Order. The rule further provides that the answer must contain a concise statement of the facts upon which each ground of defense is based and an admission, denial, or explanation of each fact alleged in the Order, or, if the respondent does not have sufficient knowledge of the facts to prepare a response, a statement to that effect. Factual allegations in the Order not answered or addressed will be deemed to be admitted.

Rule 64 Alternative Dispute Resolution

The new section 502.64 requires parties to a Commission proceeding to participate in a preliminary conference to discuss whether the matter may be resolved through mediation. Under this provision, parties are required to contact the Director of the Office of Consumer Affairs & Dispute Resolution Services (CADRS) within fifteen (15) days of the respondent's filing of an answer to schedule the preliminary conference. The Director of CADRS or his or her designee will conduct the preliminary conference either in person or via telephone, video conference, or other forum convenient to the parties. The designee will have the ability to communicate with the parties prior to the preliminary conference to explore issues and to respond to questions regarding the preliminary conference.

The purpose of the preliminary conference is to provide parties information regarding mediation services, to explain the mediation process, and to explore the willingness of parties to resolve their dispute through mediation, including whether the parties wish to voluntarily agree to mediate. In addition, the new provision allows parties, if they so choose, to reconsider use of mediation at a later time in the proceeding even when a party or parties initially elected not to use mediation or when prior attempts to mediate the dispute were unsuccessful.

The preliminary conference will be subject to the Commission's confidentiality provisions set forth in 46 CFR 502.405 regardless of whether the parties decide to mediate a dispute or whether such mediation is successful in resolving the dispute.

The Commission has determined to exclude the Commission's enforcement proceedings from the mandatory preliminary conference requirement in the final rule.

Rule 65 Decision on Default

The new rule on default clarifies the process that will occur when a party fails to participate or respond in a Commission proceeding. The rule is modeled on that of other agencies that employ a similar enforcement procedure. A defaulting respondent may petition the Commission to set aside a decision on default, which may be granted to prevent injustice upon a showing of good cause. The new rule requires that such a motion be filed within 22 days after service of the decision on default to coincide with the current time period for the filing of exceptions to an initial decision.

Rule 68 Motion for Leave To Intervene

Section 502.68, addresses motions for leave to intervene previously found in § 502.72. This section has been modernized to reflect intervention of right and permissive intervention as provided in the FRCP. The rule requires that parties seek leave to intervene in proceedings by motion, rather than by petition. The standard recognizes the existing standard of the Commission's rule as well as that in FRCP 24 governing intervention.

The revised rule allows for permissive intervention by a federal or state government department or agency or the Commission's Bureau of Enforcement. The federal or state government or agency or the Commission's Bureau of Enforcement is required to show that its expertise is relevant to one or more issues involved in the proceeding and may assist in the consideration of those issues.

Rule 69 Motions

Section 502.69 reorders the subparts from current § 502.73 into a more logical fashion and adds two new paragraphs. Paragraph (f) clarifies when responses to written motions are permitted. Paragraph (g) defines dispositive motions, because dispositive and non-dispositive motions are treated differently pursuant to §§ 502.70 and 71.

Rule 70 Procedure for Dispositive Motions

Section 502.70 addresses dispositive motions. Because these motions may dispose of all or part of a proceeding, they are handled differently from non-dispositive motions. Dispositive motions must include specific information. Non-moving parties must file responses within 15 days. The moving party may file a reply within 7 days thereafter. No further reply may be

filed unless requested by the presiding officer or upon a showing of extraordinary circumstances. Because these motions may be dispositive, the presiding officer may request additional briefing to ensure a full record. Previously, additional time and briefs were permitted on a case by case basis.

Rule 71 Procedures for Non-Dispositive Motions

Section 502.71 addresses non-dispositive motions. These are frequently motions regarding discovery disputes or requesting an extension of a deadline. They do not tend to be as complex and do not require as much time to address as dispositive motions. Therefore, § 502.71 requires the parties to attempt to confer to try to resolve the dispute before filing the motion. If a motion is still required (e.g., to extend a date), the motion must state whether it is opposed. If the motion is opposed, the non-moving party must file a response within 7 days. A reply is only permitted upon a showing of extraordinary circumstances. This will allow non-dispositive motions to be resolved more quickly and efficiently.

Rule 72 Dismissals

Section 502.72 clarifies the process for seeking voluntary and involuntary dismissals. Without such a rule, parties were not always certain how to present these dismissals. The rule is similar to FRCP 41.

d. Subpart L—Disclosures and Discovery

The Commission revises its discovery rules found in 46 CFR Subpart L to modernize and more closely conform them to the current version of the FRCP and to encourage focused and expeditious use and completion of discovery. The Shipping Act of 1984 provides that in an investigation or adjudicatory proceeding under the Act, ''a party may use depositions, written interrogatories, and discovery procedures under regulations prescribed by the Commission that, to the extent practicable, shall conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).'' 46 U.S.C. 41303(a). In 1984, the Commission promulgated discovery rules based on the federal rules as they then existed. The Commission promulgated minor amendments to § 502.203 in 1993 and § 502.201 in 1999, but in all other respects the rules are unchanged since 1984. The FRCP on discovery, on the other hand, has been extensively revised since 1984.

As a general matter, to ensure that FMC proceedings are conducted as efficiently as possible, the Commission is not adopting the various deadlines from the FRCP. To ensure parties are present in the case, revised deadlines would run from the date of the service of the answer, as opposed to the complaint, including the deadline for filing initial disclosures (§ 502.201(b)), completion of discovery (§ 502.201(g)), and initial duty to confer (§ 502.201(h)). The Commission also does not adopt many of those rules that pertain to trials, as trial-type hearings are currently the exception in Commission proceedings. The Commission incorporates references to electronically stored documents and treats those similar to the FRCP in the context of discovery.

Rule 201 Duty to Disclose; General Provisions Governing Discovery

Section 502.201 governs discovery generally, defines the scope of discovery and its limits, and provides for limited initial disclosures to be made by all parties to any Commission proceeding within seven days of receipt of respondent's answer. The requirement to make initial disclosures is a new requirement in Commission proceedings. FRCP 26 requires initial disclosures in federal courts, and the procedural rules of other federal agencies, such as the Federal Trade Commission, require initial disclosure in proceedings. Revised § 502.201 requires the parties to confer within 14 days of receipt of respondent's answer, to complete discovery within 150 days of the answer, and requires supplementation of responses to discovery. Currently, discovery must be completed within 120 days of notice of the complaint filing. This time period has proven to be unrealistic, particularly because the actual date of receipt of an answer can vary greatly. Revised § 502.201 adopts the federal rule on the scope of discovery as it currently exists in FRCP 26(b)(1), and increases the time period to complete discovery.

Revised § 502.201 also requires the disclosure of expert witnesses. The substance of the requirement tracks the federal rule, except with respect to the time for disclosures to be provided. The federal rule requires disclosure of experts and their reports no later than 90 days before trial. This deadline is not suitable in view of the Commission's 150 day discovery period. Therefore, parties are required to address expert disclosures and discovery as part of the ''duty to confer'' requirement and, if experts will be used, schedule disclosure and exchange of reports in their proposed schedule.

Rule 202 Persons Before Whom Depositions May Be Taken

Rule 203 Depositions by Oral Examination; And

Rule 204 Depositions by Written Questions

Sections 502.202, 203, and 204 modernize Commission rules on depositions to conform with current FRCP 28, 29, 30, and 31. While the Commission's rules have followed the FRCP in other respects, there are currently no limitations on the number of depositions. The revised rules limit the number of depositions that may be taken without stipulation or leave of the presiding officer to 20.

Rule 205 Interrogatories to parties

Section 205 pertains to interrogatories and also conforms to FRCP 33. Under the revised rule, a party will be permitted to serve no more than 50 written interrogatories without stipulation or leave of the presiding officer.

Rule 206 Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes

Section 502.206 continues to echo FRCP 34, but incorporates reference to production of electronically stored information and establishes that responses to requests are due within 30 days, whereas the current rule does not specify a deadline for such a response.

Rule 207 Requests for Admission; And

Rule 208 Use of Discovery Procedures Directed to Commission Staff Personnel

Section 502.207 generally follows FRCP 36, although it does not allow the award of expenses if a party fails to admit a matter that is later proven true. Section 502.208 remains unchanged.

Rule 209 Use of Depositions at Hearings

Section 502.209 continues to follow FRCP 32, but does not reference that rule in its entirety as certain provisions, such as FRCP 32(a)(5) (Limitations on use) are not typically relevant in Commission proceedings. References to the Federal Rules of Evidence are removed as they do not generally apply to administrative proceedings.

Rule 210 Motions To Compel Initial Disclosure or Compliance With Discovery Requests; Failure To Comply With Order To Make Disclosure or Answer or Produce Documents; Sanctions; Enforcement

Section 502.210 is revised to more closely conform to FRCP 37(b)(2)(A),

and makes the failure to make initial disclosures subject to a motion to compel and sanctions. The revised rule also changes the response period to 7 days in accordance with the general rule applicable to responses to motions.

As this rulemaking only affects the Commission's Rules of Practice and Procedure, this final rule is not subject to the general notice of proposed rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553(b)(A). Therefore, this final rule is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

This final rule is not a ''major rule'' under 5 U.S.C. 804(2).

List of Subjects in 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Federal Maritime Commission amends 46 CFR part 502 as follows.

PART 502—RULES OF PRACTICE AND PROCEDURE

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

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. 305, 40103–40104, 40304, 40306, 40501–40503, 40701–40706, 41101–41109, 41301–41309, 44101–44106; E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR 1964–1965 Comp. p. 306; 21 U.S.C. 853a.

■ 2. In § 502.5, amend paragraph (b) by revising the first sentence to read as follows:

§ 502.5 Documents containing confidential materials.

* * * * *

(b) Whenever a confidential filing is submitted, there must also be submitted an original and two copies of a public version of the filing. * * *

* * * * *

■ 3. In § 502.32, revise paragraph (c) to read as follows:

§ 502.32 Former employees.

* * * * *

(c) Reporting possible violations. Possible violations of section 207 of Title 18 of the United States Code, 18 U.S.C. 207, by the Commission's former officers and employees are required to be reported to the Attorney General and the Office of Government Ethics, pursuant to the regulations of the Office of Government Ethics at 5 CFR 2641.103(a) and 5 CFR 2638.603.

* * * * *

■ 4. Revise subpart E to read as follows:

Subpart E—Proceedings; Pleadings; Motions; Replies

Sec.

502.61 Proceedings.
502.62 Private party complaints for formal adjudication.
502.63 Commission enforcement action.
502.64 Alternative dispute resolution.
502.65 Decision on default.
502.66 Amendments or supplements to pleadings.
502.67 Motion for more definite statement.
502.68 Motion for leave to intervene.
502.69 Motions.
502.70 Procedure for dispositive motions.
502.71 Procedure for non-dispositive motions.
502.72 Dismissals.
502.73 Order to show cause.
502.74 Exemption procedures—general.
502.75 Declaratory orders and fee.
502.76 Petitions—general and fee.
502.77 Proceedings involving assessment agreements.
502.78 Brief of an amicus curiae.

Subpart E—Proceedings; Pleadings; Motions; Replies

§ 502.61 Proceedings.

(a) Any person may commence a proceeding by filing a complaint (Rule 62) for a formal adjudication under normal or shortened procedures (subpart K) or by filing a claim for the informal adjudication of small claims (subpart S). A person may also file a petition for a rulemaking (Rule 51), for an exemption (Rule 74), for a declaratory order (Rule 75), or for other appropriate relief (Rule 76), which becomes a proceeding when the Commission assigns a formal docket number to the petition. The Commission may commence a proceeding for a rulemaking, for an adjudication (including Commission enforcement action under § 502.63), or a non-adjudicatory investigation upon petition or on its own initiative by issuing an appropriate order.

(b) In the order instituting a proceeding or in the notice of filing of complaint and assignment, the Commission must establish dates by which the initial decision and the final Commission decision will be issued. These dates may be extended by order of the Commission for good cause shown. [Rule 61.]

§ 502.62 Private party complaints for formal adjudication.

(a) *Filing a complaint for formal adjudication.* (1) A person may file a sworn complaint alleging violation of the Shipping Act of 1984, 46 U.S.C. 40101 et seq.

(2) *Form.* Complaints should be drafted in accordance with the rules in this section.

(3) *Content of complaint.* The complaint must be verified and must contain the following:

(i) The name, street address, and email address of each complainant, and the name, address, and email address of each complainant's attorney or representative, the name, address, and, if known, email address of each person against whom complaint is made;

(ii) A recitation of the legal authority and jurisdiction for institution of the proceeding, with specific designation of the statutory provisions alleged to have been violated;

(iii) A clear and concise factual statement sufficient to inform each respondent with reasonable definiteness of the acts or practices alleged to be in violation of the law; and

(iv) A request for the relief and other affirmative action sought.

(v) Shipping Act violation must be alleged. If the complaint fails to indicate the sections of the Act alleged to have been violated or clearly to state facts which support the allegations, the Commission may, on its own initiative, require the complaint to be amended to supply such further particulars as it deems necessary.

(4) *Complaints seeking reparation; statute of limitations.* A complaint may seek reparation (money damages) for injury caused by violation of the Shipping Act of 1984. (See subpart O of this part.)

(i) Where reparation is sought, the complaint must set forth the injury caused by the alleged violation and the amount of alleged damages.

(ii) Except under unusual circumstances and for good cause shown, reparation will not be awarded upon a complaint in which it is not specifically requested, nor upon a new complaint by or for the same complainant which is based upon a finding in the original proceeding.

(iii) A complaint seeking reparation must be filed within three years after the claim accrues. Notification to the Commission that a complaint may or will be filed for the recovery of reparation will not constitute a filing within the applicable statutory period.

(iv) Civil penalties must not be requested and will not be awarded in complaint proceedings.

(5) *Oral hearing.* The complaint should designate whether an oral hearing is requested and the desired place for any oral hearing. The presiding

officer will determine whether an oral hearing is necessary.

(6) *Filing fee.* The complaint must be accompanied by remittance of a $221 filing fee.

(7) A complaint is deemed filed on the date it is received by the Commission.

(b) *Answer to a complaint.* (1) *Time for filing.* A respondent must file with the Commission an answer to the complaint and must serve the answer on complainant as provided in subpart H of this part within 25 days after the date of service of the complaint by the Commission unless this period has been extended under § 502.67 or § 502.102, or reduced under § 502.103, or unless motion is filed to withdraw or dismiss the complaint, in which latter case, answer must be filed within 10 days after service of an order denying such motion. For good cause shown, the presiding officer may extend the time for filing an answer.

(2) *Contents of answer.* The answer must be verified and must contain the following:

(i) The name, address, and email address of each respondent, and the name, address, and email address of each respondent's attorney or representative;

(ii) Admission or denial of each alleged violation of the Shipping Act;

(iii) A clear and concise statement of each ground of defense and specific admission, denial, or explanation of facts alleged in the complaint, or, if respondent is without knowledge or information thereof, a statement to that effect, and a statement showing that the complainant is entitled to relief;

(iv) Any affirmative defenses, including allegations of any additional facts on which the affirmative defenses are based; and

(3) *Oral hearing.* The answer should designate whether an oral hearing is requested and the desired place for such hearing. The presiding officer will determine whether an oral hearing is necessary.

(4) *Counterclaims, crossclaims, and third-party complaints.* In addition to filing an answer to a complaint, a respondent may include in the answer a counterclaim against the complainant, a crossclaim against another respondent, or a third-party complaint. A counterclaim, a crossclaim, or a third-party complaint must allege and be limited to violations of the Shipping Act within the jurisdiction of the Commission. The service and filing of a counterclaim, a crossclaim, or a third-party complaint and answers or replies thereto are governed by the rules and requirements of this section for the filing of complaints and answers.

(5) A reply to an answer may not be filed unless ordered by the presiding officer.

(6) *Effect of failure to file answer.* (i) Failure of a party to file an answer to a complaint, counterclaim, crossclaim, or third-party complaint within the time provided will be deemed to constitute a waiver of that party's right to appear and contest the allegations of the complaint, counterclaim, crossclaim, or third-party complaint to which it has not filed an answer and to authorize the presiding officer to enter an initial decision on default as provide for in 46 CFR 502.65. Well pleaded factual allegations in the complaint not answered or addressed will be deemed to be admitted.

(ii) A party may make a motion for initial decision on default. [Rule 62.]

§ 502.63 Commission enforcement action.

(a) The Commission may issue an Order of Investigation and Hearing commencing an adjudicatory investigation against one or more respondents alleging one or more violations of the statutes that it administers.

(b) *Contents of Order of Investigation and Hearing.* The Order of Investigation and Hearing must contain the following:

(1) The name, street address, and, if known, email address of each person against whom violations are alleged;

(2) A recitation of the legal authority and jurisdiction for institution of the proceeding, with specific designation of the statutory provisions alleged to have been violated;

(3) A clear and concise factual statement sufficient to inform each respondent with reasonable definiteness of the acts and practices alleged to be in violation of the law;

(4) Notice of penalties, cease and desist order, or other affirmative action sought; and

(5) Notice of the requirement to file an answer and a statement of the consequences of failure to file an answer.

(c) *Answer to Order of Investigation and Hearing.* (1) *Time for filing.* A respondent must file with the Commission an answer to the Order of Investigation and Hearing and serve a copy of the answer on the Bureau of Enforcement within 25 days after being served with the Order of Investigation and Hearing unless this period has been extended under § 502.67 or § 502.102, or reduced under § 502.103, or unless motion is filed to withdraw or dismiss the Order of Investigation and Hearing, in which latter case, answer must be filed within 10 days after service of an order denying such motion. For good cause shown, the presiding officer may extend the time for filing an answer.

(2) *Contents of answer.* The answer must be verified and must contain the following:

(i) The name, address, and email address of each respondent, and the name, address, and email address of each respondent's attorney or representative;

(ii) Admission or denial of each alleged violation of the Shipping Act;

(iii) A clear and concise statement of each ground of defense and specific admission, denial, or explanation of facts alleged in the complaint, or, if respondent is without knowledge or information thereof, a statement to that effect; and

(iv) Any affirmative defenses, including allegations of any additional facts on which the affirmative defenses are based.

(3) *Oral hearing.* The answer must indicate whether an oral hearing is requested and the desired place for such hearing. The presiding officer will determine whether an oral hearing is necessary.

(4) *Effect of failure to file answer.* (i) Failure of a respondent to file an answer to an Order of Investigation and Hearing within the time provided will be deemed to constitute a waiver of the respondent's right to appear and contest the allegations in the Order of Investigation and Hearing and to authorize the presiding officer to enter a decision on default as provided for in 46 CFR 502.65. Well pleaded factual allegations in the Order of Investigation and Hearing not answered or addressed will be deemed to be admitted.

(ii) The Bureau of Enforcement may make a motion for decision on default. [Rule 63.]

§ 502.64 Alternative dispute resolution.

(a) *Mandatory preliminary conference.* (1) *Participation.* Subsequent to service of a Complaint, parties must participate in a preliminary conference with the Commission's Office of Consumer Affairs and Dispute Resolution Services (CADRS) as to whether the matter may be resolved through mediation. The preliminary conference may be conducted either in person or via telephone, video conference, or other forum.

(2) *Timing.* Within fifteen (15) days of the filing of an answer, the parties must contact the Director of CADRS to schedule the preliminary conference. The Director of CADRS or his/her designees will conduct the preliminary

conference and may confer with each party separately at any time.

(b) *Continued availability of dispute resolution services to resolve procedural and other disputes.* Pursuant to subpart U of this part, the parties mutually may agree, at any time prior to the termination of a Commission proceeding, to initiate or reopen a mediation proceeding to explore resolution of procedural or substantive issues.

(c) *Proceeding not stayed during dispute resolution process.* Unless otherwise ordered by the presiding officer, a mediation proceeding does not stay or delay the procedural time requirements set forth by rule or order of the presiding officer.

(d) *Confidentiality.* The preliminary conference will be confidential. [Rule 64.]

§ 502.65 Decision on default.

(a) A party to a proceeding may be deemed to be in default if that party fails:

(1) To appear, in person or through a representative, at a hearing or conference of which that party has been notified;

(2) To answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding; or

(3) To cure a deficient filing within the time specified by the Commission or the presiding officer.

(b) When a party is found to be in default, the Commission or the presiding officer may issue a decision on default upon consideration of the record, including the complaint or Order of Investigation and Hearing.

(c) The presiding officer may require additional information or clarification when needed to issue a decision on default, including a determination of the amount of reparations or civil penalties where applicable.

(d) A respondent who has defaulted may file with the Commission a petition to set aside a decision on default. Such a petition must be made within 22 days of the service date of the decision, state in detail the reasons for failure to appear or defend, and specify the nature of the proposed defense. In order to prevent injustice, the Commission may for good cause shown set aside a decision on default. [Rule 65.]

§ 502.66 Amendments or supplements to pleadings.

(a) Amendments or supplements to any pleading (complaint, Order of Investigation and Hearing, counterclaim, crossclaim, third-party complaint, and answers thereto) will be permitted or rejected, either in the discretion of the Commission or presiding officer. No amendment will be allowed that would broaden the issues, without opportunity to reply to such amended pleading and to prepare for the broadened issues. The presiding officer may direct a party to state its case more fully and in more detail by way of amendment.

(b) A response to an amended pleading must be filed and served in conformity with the requirements of subpart H and § 502.69 of this part, unless the Commission or the presiding officer directs otherwise. Amendments or supplements allowed prior to hearing will be served in the same manner as the original pleading, except that the presiding officer may authorize the service of amended complaints directly by the parties rather than by the Secretary of the Commission.

(c) Whenever by the rules in this part a pleading is required to be verified, the amendment or supplement must also be verified. [Rule 66.]

§ 502.67 Motion for more definite statement.

If a pleading (including a complaint, counterclaim, crossclaim, or third-party complaint filed pursuant to § 502.62) to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably prepare a response, the party may move for a more definite statement before filing a responsive pleading. The motion must be filed within 15 days of the pleading and must point out the defects complained of and the details desired. If the motion is granted and the order of the presiding officer is not obeyed within 10 days after service of the order or within such time as the presiding officer sets, the presiding officer may strike the pleading to which the motion was directed or issue any other appropriate order. If the motion is denied, the time for responding to the pleading must be extended to a date 10 days after service of the notice of denial. [Rule 67.]

§ 502.68 Motion for leave to intervene.

(a) *Filing.* A motion for leave to intervene may be filed in any proceeding.

(b) *Procedure for intervention.* (1) Upon request, the Commission will furnish a service list to any member of the public pursuant to part 503 of this chapter.

(2) The motion must:

(i) Comply with all applicable provisions of subpart A of this part;

(ii) Indicate the type of intervention sought;

(iii) Describe the interest and position of the person seeking intervention, and address the grounds for intervention set forth in paragraph (c) of this section;

(iv) Describe the nature and extent of its proposed participation, including the use of discovery, presentation of evidence, and examination of witnesses;

(v) State the basis for affirmative relief, if affirmative relief is sought; and

(vi) Be served on existing parties by the person seeking intervention pursuant to subpart H of this part.

(3) A response to a motion to intervene must be served and filed within 15 days after the date of service of the motion.

(c)(1) *Intervention of right.* The presiding officer or Commission must permit anyone to intervene who claims an interest relating to the property or transaction that is subject of the proceeding, and is so situated that disposition of the proceeding may as a practical matter impair or impede the ability of such person to protect its interest, unless existing parties adequately represent that interest.

(2) *Permissive intervention.* (i) *In general.* The presiding officer or Commission may permit anyone to intervene who shows that a common issue of law or fact exists between such person's interest and the subject matter of the proceeding; that intervention would not unduly delay or broaden the scope of the proceeding, prejudice the adjudication of the rights, or be duplicative of the positions of any existing party; and that such person's participation may reasonably be expected to assist in the development of a sound record.

(ii) *By a government department, agency, or the Commission's Bureau of Enforcement.* The presiding officer or Commission may permit intervention by a Federal or State government department or agency or the Commission's Bureau of Enforcement upon a showing that its expertise is relevant to one or more issues involved in the proceeding and may assist in the consideration of those issues.

(3) The timeliness of the motion will also be considered in determining whether a motion will be granted under paragraph (b)(2) of this section and should be filed no later than 30 days after publication in the **Federal Register** of the Commission's order instituting the proceeding or the notice of the filing of the complaint. Motions filed after that date must show good cause for the failure to file within the 30-day period.

(d) *Use of discovery by an intervenor.* (1) Absent good cause shown, an intervenor desiring to utilize the discovery procedures provided in

subpart L must commence doing so no more than 15 days after its motion for leave to intervene has been granted.

(2) The Commission or presiding officer may impose reasonable limitations on an intervenor's participation in order to:

(i) Restrict irrelevant or duplicative discovery, evidence, or argument;

(ii) Have common interests represented by a spokesperson; and

(iii) Retain authority to determine priorities and control the course of the proceeding.

(3) The use of discovery procedures by an intervenor whose motion was filed more than 30 days after publication in the **Federal Register** of the Commission's order instituting the proceeding or the notice of the filing of the complaint will not be allowed if the presiding officer determines that the use of the discovery by the intervenor will unduly delay the proceeding. [Rule 68.]

§ 502.69 Motions.

(a) In any adjudication, an application or request for an order or ruling not otherwise specifically provided for in this part must be by motion. After the assignment of a presiding officer to a proceeding and before the issuance of his or her recommended or initial decision, all motions must be addressed to and ruled upon by the presiding officer unless the subject matter of the motion is beyond his or her authority, in which event the matter must be referred to the Commission. If the proceeding is not before the presiding officer, motions must be designated as *petitions* and must be addressed to and ruled upon by the Commission.

(b) Motions must be in writing, except that a motion made at a hearing may be sufficient if stated orally upon the record.

(c) Oral argument upon a written motion may be permitted at the discretion of the presiding officer or the Commission.

(d) A repetitious motion will not be entertained.

(e) All written motions must state clearly and concisely the purpose of and the relief sought by the motion, the statutory or principal authority relied upon, and the facts claimed to constitute the grounds supporting the relief requested; and must conform with the requirements of subpart H of this part.

(f) Any party may file and serve a response to any written motion, pleading, petition, application, etc., permitted under this part except as otherwise provided respecting answers (§ 502.62), shortened procedure (subpart K of this part), briefs (§ 502.221), exceptions (§ 502.227), and reply to petitions for attorney fees under the Equal Access to Justice Act (§ 502.503(b)(1)).

(g) *Dispositive and non-dispositive motions defined.* For the purpose of these rules, *dispositive motion* means a motion for decision on the pleadings; motion for summary decision or partial summary decision; motion to dismiss all or part of a proceeding or party to a proceeding; motion for involuntary dismissal; motion for initial decision on default; or any other motion for a final determination of all or part of a proceeding. All other motions, including all motions related to discovery, are non-dispositive motions. [Rule 69.]

§ 502.70 Procedure for dispositive motions.

(a) A dispositive motion as defined in § 502.69(g) of this subpart must include a concise statement of the legal basis of the motion with citation to legal authority and a statement of material facts with exhibits as appropriate.

(b) A response to a dispositive motion must be served and filed within 15 days after the date of service of the motion. The response must include a concise statement of the legal basis of the response with citation to legal authority and specific responses to any statements of material facts with exhibits as appropriate.

(c) A reply to the response to a dispositive motion may be filed within 7 days after the date of service of the response to the motion. A reply may not raise new grounds for relief or present matters that do not relate to the response and must not reargue points made in the opening motion.

(d) The non-moving party may not file any further reply unless requested by the Commission or presiding officer, or upon a showing of extraordinary circumstances.

(e) *Page limits.* Neither the motion nor the response may exceed 30 pages, excluding exhibits or appendices, without leave of the presiding officer. A reply may not exceed 15 pages. [Rule 70.]

§ 502.71 Procedure for non-dispositive motions.

(a) *Duty to confer.* Before filing a non-dispositive motion as defined in § 502.69(g) of this subpart, the parties must attempt to discuss the anticipated motion with each other in a good faith effort to determine whether there is any opposition to the relief sought and, if there is opposition, to narrow the areas of disagreement. The moving party must state within the body of the motion what attempt was made or that the discussion occurred and whether the motion is opposed.

(b) *Response to a non-dispositive motion.* A response to a non-dispositive motion must be served and filed within 7 days after the date of service of the motion.

(c) *Response replies.* The moving party may not file a reply to a response to a non-dispositive motion unless requested by the Commission or presiding officer, or upon a showing of extraordinary circumstances.

(d) *Page limits.* Neither the motion nor the response may exceed 10 pages, excluding exhibits or appendices, without leave of the presiding officer. [Rule 71.]

§ 502.72 Dismissals.

(a) *Voluntary dismissal.* (1) *By the complainant.* The complainant may dismiss an action without an order from the presiding officer by filing a notice of dismissal before the opposing party serves either an answer, a motion to dismiss, or a motion for summary decision; or a stipulation of dismissal signed by all parties who have appeared. Unless the notice or stipulation states otherwise, the dismissal is without prejudice.

(2) *By order of the presiding officer.* Except as provided in paragraph (a)(1) of this section, an action may be dismissed at the complainant's request only by order of the presiding officer or the Commission, on terms the presiding officer considers proper. If a respondent has pleaded a counterclaim before being served with the complainant's motion to dismiss, the action may be dismissed over the respondent's objection only if the counterclaim can remain pending for independent adjudication. Unless the order states otherwise, a dismissal under this paragraph is without prejudice.

(b) *Involuntary dismissal; effect.* If the complainant fails to prosecute or to comply with these rules or an order in the proceeding, a respondent may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subpart, except one for lack of jurisdiction or failure to join a party, operates as an adjudication on the merits.

(c) *Dismissing a counterclaim, crossclaim, or third-party claim.* This rule applies to dismissals of any counterclaim, crossclaim, or third-party claim. A claimant's voluntary dismissal under this rule must be made before a responsive pleading is served. [Rule 72.]

§ 502.73 Order to show cause.

The Commission may institute a proceeding by order to show cause. The order must be served upon all persons named therein, must include the information specified in § 502.143, must require the person named therein to answer, and may require such person to appear at a specified time and place and present evidence upon the matters specified. [Rule 73.]

§ 502.74 Exemption procedures—general.

(a) *Authority.* The Commission, upon application or on its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to the Shipping Act of 1984 or any specified activity of those persons from any requirement of the Act if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to any exemption and may, by order, revoke any exemption.

(b) *Application for exemption.* Any person may petition the Commission for an exemption or revocation of an exemption of any class of agreements or an individual agreement or any specified activity pursuant to section 16 of the Shipping Act of 1984 (46 U.S.C. 40103). A petition for exemption must state the particular requirement of the Shipping Act of 1984 for which exemption is sought. The petition must also include a statement of the reasons why an exemption should be granted or revoked, must provide information relevant to any finding required by the Act and must comply with § 502.76. Where a petition for exemption of an individual agreement is made, the application must include a copy of the agreement. Unless a petition specifically requests an exemption by regulation, the Commission must evaluate the petition as a request for an exemption by order.

(c) *Participation by interested persons.* No order or regulation of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons and departments and agencies of the United States.

(d) ***Federal Register*** *notice.* Notice of any proposed exemption or revocation of exemption, whether upon petition or the Commission's own motion, must be published in the **Federal Register**. The notice must include when applicable:

(1) A short title for the proposed exemption or the title of the existing exemption;

(2) The identity of the party proposing the exemption or seeking revocation;

(3) A concise summary of the agreement or class of agreements or specified activity for which exemption is sought, or the exemption which is to be revoked;

(4) A statement that the petition and any accompanying information are available for inspection in the Commission's offices in Washington, DC; and

(5) The final date for filing comments regarding the proposal. [Rule 74.]

§ 502.75 Declaratory orders and fee.

(a)(1) The Commission may, in its discretion, issue a declaratory order to terminate a controversy or to remove uncertainty.

(2) Petitions for the issuance thereof must: state clearly and concisely the controversy or uncertainty; name the persons and cite the statutory authority involved; include a complete statement of the facts and grounds prompting the petition, together with full disclosure of petitioner's interest; be served upon all parties named therein; and conform to the requirements of subpart H of this part.

(3) Petitions must be accompanied by remittance of a $241 filing fee.

(b) Petitions under this section must be limited to matters involving conduct or activity regulated by the Commission under statutes administered by the Commission. The procedures of this section must be invoked solely for the purpose of obtaining declaratory rulings which will allow persons to act without peril upon their own view. Controversies involving an allegation of violation by another person of statutes administered by the Commission, for which coercive rulings such as payment of reparation or cease and desist orders are sought, are not proper subjects of petitions under this section. Such matters must be adjudicated either by filing of a complaint under section 11 of the Shipping Act of 1984 (46 U.S.C. 41301–41302, 41305–41307(a)) and § 502.62, or by filing of a petition for investigation under § 502.76.

(c) Petitions under this section must be accompanied by the complete factual and legal presentation of petitioner as to the desired resolution of the controversy or uncertainty, or a detailed explanation why such can only be developed through discovery or evidentiary hearing.

(d) Responses to the petition must contain the complete factual and legal presentation of the responding party as to the desired resolution, or a detailed explanation why such can only be developed through discovery or evidentiary hearing. Responses must conform to the requirements of § 502.69 and must be served pursuant to subpart H of this part.

(e) No additional submissions will be permitted unless ordered or requested by the Commission or the presiding officer. If discovery or evidentiary hearing on the petition is deemed necessary by the parties, such must be requested in the petition or responses. Requests must state in detail the facts to be developed, their relevance to the issues, and why discovery or hearing procedures are necessary to develop such facts.

(f)(1) A notice of filing of any petition which meets the requirements of this section must be published in the **Federal Register**. The notice will indicate the time for filing of responses to the petition. If the controversy or uncertainty is one of general public interest, and not limited to specifically named persons, opportunity for response will be given to all interested persons including the Commission's Bureau of Enforcement.

(2) In the case of petitions involving a matter limited to specifically named persons, participation by persons not named therein will be permitted only upon grant of intervention by the Commission pursuant to § 502.68.

(3) Petitions for leave to intervene must be submitted on or before the response date and must be accompanied by intervenor's complete response including its factual and legal presentation in the matter.

(g) Petitions for declaratory order which conform to the requirements of this section will be referred to a formal docket. Referral to a formal docket is not to be construed as the exercise by the Commission of its discretion to issue an order on the merits of the petition. [Rule 75.]

§ 502.76 Petitions—general and fee.

(a) Except when submitted in connection with a formal proceeding, all claims for relief or other affirmative action by the Commission, including appeals from Commission staff action, except as otherwise provided in this part, must be by written petition, which must state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon and the relief sought, must cite by appropriate reference the statutory provisions or other authority relied upon for relief, must be served upon all parties named therein, and must conform otherwise to the requirements of subpart H of this part. Responses thereto must conform to the requirements of § 502.67.

(b) Petitions must be accompanied by remittance of a $241 filing fee. [Rule 76.]

§ 502.77 Proceedings involving assessment agreements.

(a) In complaint proceedings involving assessment agreements filed under section 5(e) of the Shipping Act of 1984 (46 U.S.C. 40301(e), 40305), the Notice of Filing of Complaint and Assignment will specify a date before which the initial decision will be issued, which date will not be more than eight months from the date the complaint was filed.

(b) Any party to a proceeding conducted under this section who desires to utilize the prehearing discovery procedures provided by subpart L of this part must commence doing so at the time it files its initial pleading, i.e., complaint, answer, or petition for leave to intervene. Discovery matters accompanying complaints must be filed with the Secretary of the Commission for service pursuant to § 502.113. Answers or objections to discovery requests must be subject to the normal provisions set forth in subpart L.

(c) Exceptions to the decision of the presiding officer, filed pursuant to § 502.227, must be filed and served no later than 15 days after date of service of the initial decision. Replies thereto must be filed and served no later than 15 days after date of service of exceptions. In the absence of exceptions, the decision of the presiding officer must be final within 30 days from the date of service, unless within that period, a determination to review is made in accordance with the procedures outlined in § 502.227. [Rule 77.]

§ 502.78 Brief of an amicus curiae.

(a) A brief of an amicus curiae may be filed only by leave of the Commission or the presiding officer granted on motion with notice to the parties, or at the request of the Commission or the presiding officer, except that leave must not be required when the brief is presented by the United States or any agency or officer of the United States. The brief may be conditionally filed with the motion for leave. A brief of an amicus curiae must be limited to questions of law or policy.

(b) A motion for leave to file an amicus brief must identify the interest of the applicant and must state the reasons why such a brief is desirable.

(c) Except as otherwise permitted by the Commission or the presiding officer, an amicus curiae must file its brief no later than 7 days after the initial brief of the party it supports is received at the Commission. An amicus curiae that is not supporting either party must file its brief no later than 7 days after the initial brief of the first party filing a brief is received at the Commission. The Commission or the presiding officer must grant leave for a later filing only for cause shown, in which event the period within which an opposing party may answer must be specified.

(d) A motion of an amicus curiae to participate in oral argument will be granted only in accordance with the requirements of § 502.241. [Rule 78.]

■ 5. Revise Subpart L to read as follows:

Subpart L—Disclosures and Discovery

Sec.

502.201 Duty to disclose; general provisions governing discovery.
502.202 Persons before whom depositions may be taken.
502.203 Depositions by oral examination.
502.204 Depositions by written questions.
502.205 Interrogatories to parties.
502.206 Producing documents, electronically stored information, and tangible things, or entering onto land, for inspection and other purposes.
502.207 Requests for admission.
502.208 Use of discovery procedures directed to Commission staff personnel.
502.209 Use of depositions at hearings.
502.210 Motions to compel initial disclosures or compliance with discovery requests; failure to comply with order to make disclosure or answer or produce documents; sanctions; enforcement.

Subpart L—Disclosures and Discovery

§ 502.201 Duty to disclose; general provisions governing discovery.

(a) *Applicability.* Unless otherwise stated in subpart S, T, or any other subpart of this part, the procedures described in this subpart are available in all adjudicatory proceedings under the Shipping Act of 1984.

(b) *Initial disclosures.* Except as otherwise stipulated or ordered by the Commission or presiding officer, and except as provided in this subpart related to disclosure of expert testimony, all parties must, within 7 days of service of a respondent's answer to the complaint or Order of Investigation and Hearing and without awaiting a discovery request, provide to each other:

(1) The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(2) A copy, or a description by category and location, of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

(3) An estimate of any damages claimed by the disclosing party who must also make available for inspection and copying the documents or other evidentiary material, unless privileged or protected from disclosure, on which the estimate is based, including materials bearing on the nature and extent of injuries suffered.

(c) *For parties served or joined later.* A party that is first served or otherwise joined after the answer is made must make the initial disclosures within 5 days after an order of intervention is granted, unless a different time is set by stipulation or order of presiding officer. All parties must also produce to the late-joined party any initial disclosures previously made.

(d) *Disclosure of expert testimony.* (1) *In general.* A party must disclose to the other parties the identity of any witness it may use in the proceeding to present evidence as an expert.

(2) *Witnesses who are required to provide a written report.* Unless otherwise stipulated or ordered by the presiding officer, if the witness is one retained or specially employed to provide expert testimony in the proceeding or one whose duties as the party's employee regularly involve giving expert testimony, the disclosure must be accompanied by a written report, prepared and signed by the witness. The report must contain:

(i) A complete statement of all opinions the witness will express and the basis and reasons for them;

(ii) The facts or data considered by the witness in forming them;

(iii) Any exhibits that will be used to summarize or support them;

(iv) The witness's qualifications, including a list of all publications authored in the previous 10 years;

(v) A list of all other proceedings or cases in which, during the previous 4 years, the witness testified as an expert in a trial, an administrative proceeding, or by deposition; and

(vi) A statement of the compensation to be paid for the study and testimony in the proceeding.

(3) *Witnesses who are not required to provide a written report.* Unless otherwise stipulated or ordered by the presiding officer, if the witness is not required to provide a written report under paragraph (d)(2) of this section, the disclosure must state:

(i) The subject matter on which the witness is expected to present evidence as an expert; and

(ii) Summary of the facts and opinions to which the witness is expected to testify.

(4) *Time to disclose expert testimony.* The time for disclosure of expert

testimony must be addressed by the parties when they confer as provided in paragraph (h) of this section and, if applicable, must be included in the proposed discovery schedule submitted to the presiding officer.

(e) *Scope of discovery and limits.* (1) Unless otherwise limited by the presiding officer, or as otherwise provided in this subpart, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense—including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. For good cause, the presiding officer may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at hearing if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Limitations on frequency and extent.* (i) *Specific limitations on electronically stored information.* A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the presiding officer may nonetheless order discovery from such sources if the requesting party shows good cause. The presiding officer may specify conditions for the discovery.

(ii) *When required.* On motion or on its own, the presiding officer may limit the frequency or extent of discovery otherwise allowed by these rules if the presiding officer determines that:

(A) The discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(B) The party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(C) The burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the proceeding, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues.

(f) *Scope of discovery and limits—experts.* (1) A party may depose any person who has been identified as an expert whose opinions may be presented in a proceeding. If a report is required of the witness, the deposition may be conducted only after the report is provided.

(2) Drafts of any report or disclosure required by these rules are not discoverable regardless of the form in which the draft is recorded.

(3) Communications between the party's attorney and any expert witness required to provide a report are not discoverable regardless of the form of communications, except to the extent that the communications relate to compensation for the expert's study or testimony; identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(4) A party may not by interrogatories or deposition discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for a proceeding and who is not expected to be presented as a witness; provided, however, that the presiding officer may permit such discovery and may impose such conditions as deemed appropriate upon a showing of exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(g) *Completion of discovery.* Discovery must be completed within 150 days of the service of a respondent's answer to the complaint or Order of Investigation and Hearing.

(h) *Duty of the parties to confer.* In all proceedings in which the procedures of this subpart are used, it is the duty of the parties to confer within 14 days after receipt of a respondent's answer to a complaint or Order of Investigation and Hearing in order to: establish a schedule for the completion of discovery, including disclosures and discovery related to experts, within the 120-day period prescribed in paragraph (g) of this section; resolve to the fullest extent possible disputes relating to discovery matters; and expedite, limit, or eliminate discovery by use of admissions, stipulations and other techniques. The parties must submit the schedule to the presiding officer not later than 5 days after the conference. Nothing in this rule should be construed to preclude the parties from conducting discovery and conferring at an earlier date.

(i)(1) *Conferences by order of the presiding officer.* The presiding officer may at any time order the parties or their attorneys to participate in a conference at which the presiding officer may direct the proper use of the procedures of this subpart or make such orders as may be necessary to resolve disputes with respect to discovery and to prevent delay or undue inconvenience.

(2) *Resolution of disputes.* After making every reasonable effort to resolve discovery disputes, a party may request a conference or rulings from the presiding officer on such disputes. If necessary to prevent undue delay or otherwise facilitate conclusion of the proceeding, the presiding officer may order a hearing to commence before the completion of discovery.

(j) *Protective orders.* (1) *In general.* A party or any person from whom discovery is sought may move for a protective order. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without Commission or presiding officer action. The Commission or presiding officer may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(i) Forbidding the disclosure or discovery;

(ii) Specifying terms, including time and place, for the disclosure or discovery;

(iii) Prescribing a discovery method other than the one selected by the party seeking discovery;

(iv) Forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(v) Designating the persons who may be present while the discovery is conducted;

(vi) Requiring that a deposition be sealed and opened only on Commission or presiding officer order;

(vii) Requiring that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a specified way; or

(viii) Requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the Commission or presiding officer directs.

(2) *Ordering discovery.* If a motion for a protective order is denied in whole or in part, the Commission or presiding officer may, on just terms, order that any party or person provide or permit discovery.

(k) *Supplementing responses.* A party who has made a disclosure under

paragraph (b) or (d) of this section, or who has responded to an interrogatory, request for production, or request for admission, must supplement or correct its disclosure or response:

(1) In a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in written communication; or

(2) As ordered by the presiding officer.

(l) *Stipulations.* Unless the presiding officer orders otherwise, the parties may stipulate that other procedures governing or limiting discovery be modified, but a stipulation extending the time for any form of discovery must have presiding officer's approval if it would interfere with the time set for completing discovery, for adjudicating a motion, or for hearing. [Rule 201.]

§ 502.202 Persons before whom depositions may be taken.

(a) *Within the United States.* (1) *In general.* Within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(i) An officer authorized to administer oaths either by federal law or by the law in the place of examination; or

(ii) A person appointed by the Commission or the presiding officer to administer oaths and take testimony.

(b) *In a foreign country.* (1) *In general.* A deposition may be taken in a foreign country:

(i) Under an applicable treaty or convention;

(ii) under a letter of request, whether or not captioned a ''letter rogatory'';

(iii) On notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination; or

(iv) Before a person authorized by the Commission or the presiding officer to administer any necessary oath and take testimony.

(2) *Issuing a letter of request or an authorization.* A letter of request, an authorization, or both may be issued:

(i) On appropriate terms after an application and notice of it; and

(ii) Without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) *Form of a request, notice, or authorization.* When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed ''To the Appropriate Authority in [name of country].'' A deposition notice or an authorization must designate by name or descriptive title the person before whom the deposition is to be taken.

(4) *Letter of request—admitting evidence.* Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States.

(c) *Disqualification.* A deposition must not be taken before a person who is any party's relative, employee, or attorney; who is related to or employed by any party's attorney; or who is financially interested in the action. [Rule 202.]

§ 502.203 Depositions by oral examination.

(a) *When a deposition may be taken.* (1) *Without leave.* A party may, by oral questions, depose any person, including a party, without leave of the presiding officer except as provided in § 502.203(a)(2). The deponent's attendance may be compelled by subpoena under subpart I of this part.

(2) *With leave.* A party must obtain leave of the presiding officer, if the parties have not stipulated to the deposition and:

(i) The deposition would result in more than 20 depositions being taken under this rule or § 502.204 by any party; or

(ii) The deponent has already been deposed in the case.

(b) *Notice of the deposition; other formal requirements.* (1) *Notice in general.* A party who wants to depose a person by oral questions must give reasonable written notice to every other party. The notice must state the time and place of the deposition and, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.

(2) *Producing documents.* If a subpoena duces tecum is to be served on the deponent, the materials designated for production, as set out in the subpoena, must be listed in the notice or in an attachment. The notice to a party deponent may be accompanied by a request under § 502.206 to produce documents and tangible things at the deposition.

(3) *Method of recording.* (i) *Method stated in the notice.* The party who notices the deposition must state in the notice the method for recording the testimony. Unless the presiding officer orders otherwise, testimony may be recorded by audio, audiovisual, or stenographic means. The noticing party bears the recording costs. Any party may arrange to transcribe a deposition.

(ii) *Additional method.* With prior notice to the deponent and other parties, any party may designate another method for recording the testimony in addition to that specified in the original notice. That party bears the expense of the additional record or transcript unless the presiding officer orders otherwise.

(4) *By remote means.* The parties may stipulate, or the presiding officer may on motion order, that a deposition be taken by telephone or other remote means.

(5) *Officer's duties.* (i) *Before the deposition.* Unless the parties stipulate otherwise, a deposition must be conducted before an officer appointed or designated under § 502.202. The officer must begin the deposition with an on-the-record statement that includes:

(A) The officer's name and business address;

(B) The date, time, and place of the deposition;

(C) The deponent's name;

(D) The officer's administration of the oath or affirmation to the deponent; and

(E) The identity of all persons present.

(ii) *Conducting the deposition; avoiding distortion.* If the deposition is recorded nonstenographically, the officer must repeat the items in § 502.203(b)(5)(i)(A) through (C) at the beginning of each unit of the recording medium. The deponent's and attorneys' appearance or demeanor must not be distorted through recording techniques.

(iii) *After the deposition.* At the end of a deposition, the officer must state on the record that the deposition is complete and must set out any stipulations made by the attorneys about custody of the transcript or recording and of the exhibits, or about any other pertinent matters.

(6) *Notice or subpoena directed to an organization.* In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing representatives, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. A subpoena must advise a nonparty organization of its duty to

make this designation. The persons designated must testify about information known or reasonably available to the organization. This paragraph (6) does not preclude a deposition by any other procedure allowed by these rules.

(c) *Examination and cross-examination; record of the examination; objections; written questions.* (1) *Examination and cross-examination.* The examination and cross-examination of a deponent proceed as they would at hearing under the provisions of § 502.154. After putting the deponent under oath or affirmation, the officer must record the testimony by the method designated under § 502.203(b)(3). The testimony must be recorded by the officer personally or by a person acting in the presence and under the direction of the officer.

(2) *Objections.* An objection at the time of the examination, whether to evidence, to a party's conduct, to the officer's qualifications, to the manner of taking the deposition, or to any other aspect of the deposition, must be noted on the record, but the examination still proceeds; the testimony is taken subject to any objection. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the presiding officer, or to present a motion under § 502.203(d)(2).

(3) *Participating through written questions.* Instead of participating in the oral examination, a party may serve written questions in a sealed envelope on the party noticing the deposition, who must deliver them to the officer. The officer must ask the deponent those questions and record the answers verbatim.

(d) *Duration; sanction; motion to terminate or limit.* (1) *Duration.* Unless otherwise stipulated or ordered by the presiding officer, a deposition is limited to 1 day of 7 hours. The presiding officer must allow additional time consistent with § 502.201(e)(2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

(2) *Motion to terminate or limit.* (i) *Grounds.* At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion may be filed with the presiding officer. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(ii) *Order.* The presiding officer may order that the deposition be terminated or may limit its scope and manner as provided in § 502.201(j). If terminated, the deposition may be resumed only by order of the Commission or presiding officer.

(e) *Review by the witness; changes.* (1) *Review; statement of changes.* On request by the deponent or a party before the deposition is completed, the deponent must be allowed 15 days after being notified by the officer that the transcript or recording is available in which:

(i) To review the transcript or recording; and

(ii) If there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) *Changes indicated in the officer's certificate.* The officer must note in the certificate prescribed by § 502.203(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 15-day period.

(f) *Certification and delivery; exhibits; copies of the transcript or recording.* (1) *Certification and delivery.* The officer must certify in writing that the witness was duly sworn and that the deposition, transcript or recording accurately records the witness's testimony. The certificate must accompany the record of the deposition. Unless the presiding officer orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked ''Deposition of [witness's name]'' and must promptly send it to the attorney who arranged for the transcript or recording. The attorney must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) *Documents and tangible things.* (i) *Originals and copies.* Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition. Any party may inspect and copy them. But if the person who produced them wants to keep the originals, the person may:

(A) Offer copies to be marked, attached to the deposition, and then used as originals, after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or

(B) Give all parties a fair opportunity to inspect and copy the originals after they are marked, in which event the originals may be used as if attached to the deposition.

(ii) *Order regarding the originals.* Any party may move for an order that the originals be attached to the deposition pending final disposition of the case.

(3) *Copies of the transcript or recording.* Unless otherwise stipulated or ordered by the presiding officer, the officer must retain the stenographic notes of a deposition taken stenographically or a copy of the recording of a deposition taken by another method. When paid reasonable charges, the officer must furnish a copy of the transcript or recording to any party or the deponent. [Rule 203.]

§ 502.204 Depositions by written questions.

(a) *When a deposition may be taken.* (1) *Without leave.* A party may, by written questions, depose any person, including a party, without leave of the presiding officer except as provided in paragraph (a)(2) of this section. The deponent's attendance may be compelled by subpoena under subpart I of this part.

(2) *With leave.* A party must obtain leave of the presiding officer, if the parties have not stipulated to the deposition and:

(i) The deposition would result in more than 20 depositions being taken under this rule or § 502.203 by any party;

(ii) The deponent has already been deposed in the case.

(3) *Service; required notice.* A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) *Questions directed to an organization.* A public or private corporation, a partnership, an association, or a governmental agency may be deposed by written questions in accordance with § 502.203(b)(6).

(5) *Questions from other parties.* Any questions to the deponent from other parties must be served on all parties as follows: Cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within 7 days after being served with cross-questions; and recross-questions, within 7 days after being served with redirect questions. The presiding officer may, for good cause, extend or shorten these times.

(b) *Delivery to the officer; officer's duties.* The party who noticed the deposition must deliver to the officer before whom the deposition will be taken a copy of all the questions served and of the notice. The officer must promptly proceed to:

(1) Take the deponent's testimony in response to the questions;

(2) Prepare and certify the deposition; and

(3) Send it to the party, attaching a copy of the questions and of the notice.

(c) *Notice of completion or filing.* (1) *Completion.* The party who noticed the deposition must notify all other parties when it is completed.

(2) *Filing.* A party who files the deposition must promptly notify all other parties of the filing. [Rule 204.]

§ 502.205 Interrogatories to parties.

(a) *In general.* (1) *Number.* Unless otherwise stipulated or ordered by the presiding officer, a party may serve on any other party no more than 50 written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with § 502.201(e)(2).

(2) *Scope.* An interrogatory may relate to any matter that may be inquired into under § 502.201(e) and (f). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the presiding officer may order that the interrogatory need not be answered until designated discovery is complete, or until a prehearing conference or some other time.

(b) *Answers and objections.* (1) *Responding party.* The interrogatories must be answered:

(i) By the party to whom they are directed; or

(ii) If that party is a public or private corporation, a partnership, an association, or a governmental agency, by any officer or representative, who must furnish the information available to the party.

(2) *Time to respond.* The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to as provided in § 502.201(l) of this subpart or be ordered by the presiding officer.

(3) *Answering each interrogatory.* Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) *Objections.* The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the presiding officer, for good cause, excuses the failure.

(5) *Signature.* The person who makes the answers must sign them, and the attorney who objects must sign any objections.

(c) *Use.* An answer to an interrogatory may be used to the extent allowed by the rules in this part.

(d) *Option to produce business records.* If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by:

(1) Specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and

(2) Giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries. [Rule 205.]

§ 502.206 Producing documents, electronically stored information, and tangible things, or entering onto land, for inspection and other purposes.

(a) *In general.* A party may serve on any other party a request within the scope of § 502.201(e) and (f):

(1) To produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(i) Any designated documents or electronically stored information, including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(ii) Any designated tangible things; or

(2) To permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) *Procedure.* (1) *Contents of the request.* The request:

(i) Must describe with reasonable particularity each item or category of items to be inspected;

(ii) Must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(iii) May specify the form or forms in which electronically stored information is to be produced.

(2) *Responses and objections.* (i) *Time to respond.* The party to whom the request is directed must respond in writing within 30 days after being served. A shorter or longer time may be stipulated to as provided in § 502.201(l) of this subpart or be ordered by the presiding officer.

(ii) *Responding to each item.* For each item or category, the response must either state that inspection and related activities will be permitted as requested or state an objection to the request, including the reasons.

(iii) *Objections.* An objection to part of a request must specify the part and permit inspection of the rest.

(iv) *Responding to a request for production of electronically stored information.* The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form, or if no form was specified in the request, the party must state the form or forms it intends to use.

(v) *Producing the documents or electronically stored information.* Unless otherwise stipulated or ordered by the presiding officer, these procedures apply to producing documents or electronically stored information:

(A) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(B) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(C) A party need not produce the same electronically stored information in more than one form.

(c) *Nonparties.* By subpoena under subpart I of this part, a nonparty may be compelled to produce documents and tangible things or to permit an inspection. [Rule 206.]

§ 502.207 Requests for admission.

(a) *Scope and procedure.* (1) *Scope.* A party may serve on any other party a written request to admit, for the purposes of the pending action only, the truth of any nonprivileged relevant matters relating to facts, the application of law to fact, or opinions about either, and the genuineness of any described documents.

(2) *Form; copies of documents.* Each matter must be separately stated. A

request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.

(3) *Time to respond; effect of failure to respond.* A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. A shorter or longer time for responding may be stipulated to as provided in § 502.201(l) of this subpart or be ordered by the presiding officer.

(4) *Answer.* If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

(5) *Objections.* The grounds for objecting to a request must be stated. A party may not object solely on the ground that the request presents a genuine issue for adjudication.

(6) *Motion regarding the sufficiency of an answer or objection.* The requesting party may move for a determination of the sufficiency of an answer or objection. Unless the presiding officer finds an objection justified, the presiding officer must order that an answer be served. On finding that an answer does not comply with this rule, the presiding officer may order either that the matter is admitted or that an amended answer be served. The presiding officer may defer a decision until a prehearing conference or a specified time prior to hearing.

(b) *Effect of admission; withdrawal or amendment of admission.* A matter admitted under this rule is conclusively established unless the presiding officer, on motion, permits the admission to be withdrawn or amended. The presiding officer may permit withdrawal or amendment if it would promote the presentation of the merits of the action and if the presiding officer is not persuaded that it would prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding. [Rule 207.]

§ 502.208 Use of discovery procedures directed to Commission staff personnel.

(a) Discovery procedures described in §§ 502.202 through 502.207, directed to Commission staff personnel must be permitted and must be governed by the procedures set forth in those sections except as modified by paragraphs (b) and (c) of this section. All notices to take depositions, written interrogatories, requests for production of documents and other things, requests for admissions, and any motions in connection with the foregoing, must be served on the Secretary of the Commission.

(b) The General Counsel must designate an attorney to represent any Commission staff personnel to whom any discovery requests or motions are directed. The attorney so designated must not thereafter participate in the Commission's decision-making process concerning any issue in the proceeding.

(c) Rulings of the presiding officer issued under paragraph (a) of this section must become final rulings of the Commission unless an appeal is filed within 10 days after date of issuance of such rulings or unless the Commission on its own motion reverses, modifies, or stays such rulings within 20 days of their issuance. Replies to appeals may be filed within 10 days. No motion for leave to appeal is necessary in such instances and no ruling of the presiding officer must be effective until 20 days from date of issuance unless the Commission otherwise directs. [Rule 208.]

§ 502.209 Use of depositions at hearings.

(a) *Using depositions.* (1) *In general.* At a hearing, all or part of a deposition may be used against a party on these conditions:

(i) The party was present or represented at the taking of the deposition or had reasonable notice of it;

(ii) It is used to the extent it would be admissible if the deponent were present and testifying; and

(iii) The use is allowed by § 502.209(a)(2) through (7).

(2) *Impeachment and other uses.* Any party may use a deposition to contradict or impeach the testimony given by the deponent as a witness, or for any other purpose allowed by § 502.156 of subpart J of this part.

(3) *Deposition of party, representative, or designee.* An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party's officer, director, managing representative, or designee under § 502.203(b)(6) or § 502.204(a)(4).

(4) *Unavailable witness.* A party may use for any purpose the deposition of a witness, whether or not a party, if the Commission or presiding officer finds:

(i) That the witness is dead;

(ii) That the witness cannot attend or testify because of age, illness, infirmity, or imprisonment;

(iii) That the party offering the deposition could not procure the witness's attendance by subpoena; or

(iv) On motion and notice, that exceptional circumstances make it desirable, in the interest of justice and with due regard to the importance of live testimony at a hearing, to permit the deposition to be used.

(5) *Using part of a deposition.* If a party offers in evidence only part of a deposition, an adverse party may require the offeror to introduce other parts that in fairness should be considered with the part introduced, and any party may itself introduce any other parts.

(6) *Substituting a party.* Substituting a party does not affect the right to use a deposition previously taken.

(7) *Deposition taken in an earlier action.* A deposition lawfully taken and, if required, filed in any Federal or State court action may be used in a later action involving the same subject matter between the same parties, or their representatives or successors in interest, to the same extent as if taken in the later action. A deposition previously taken may also be used as allowed by § 502.156 of subpart J of this part.

(b) *Objections to admissibility.* Subject to § 502.202(b) and § 502.209(d)(3), an objection may be made at a hearing to the admission of any deposition testimony that would be inadmissible if the witness were present and testifying.

(c) *Form of presentation.* Unless the presiding officer orders otherwise, a party must provide a transcript of any deposition testimony the party offers, but may provide the presiding officer with the testimony in nontranscript form as well.

(d) *Waiver of objections.* (1) *To the notice.* An objection to an error or irregularity in a deposition notice is waived unless promptly served in writing on the party giving the notice.

(2) *To the officer's qualification.* An objection based on qualification of the officer before whom a deposition is to be taken is waived if not made:

(i) Before the deposition begins; or

(ii) Promptly after the basis for disqualification becomes known or, with reasonable diligence, could have been known.

(3) *To the taking of the deposition.* (i) *Objection to competence, relevance, or materiality.* An objection to a deponent's competence, or to the competence, relevance, or materiality of testimony, is not waived by a failure to make the objection before or during the deposition, unless the ground for it might have been corrected at that time.

(ii) *Objection to an error or irregularity.* An objection to an error or irregularity at an oral examination is waived if:

(A) It relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that might have been corrected at that time; and

(B) It is not timely made during the deposition.

(iii) *Objection to a written question.* An objection to the form of a written question under § 502.204 of this subpart is waived if not served in writing on the party submitting the question within the time for serving responsive questions or, if the question is a recross-question, within 7 days after being served with it.

(4) *To completing and returning the deposition.* An objection to how the officer transcribed the testimony, or prepared, signed, certified, sealed, endorsed, sent, or otherwise dealt with the deposition, is waived unless a motion to suppress is made promptly after the error or irregularity becomes known or, with reasonable diligence, could have been known. [Rule 209.]

§ 502.210 Motions to compel initial disclosures or compliance with discovery requests; failure to comply with order to make disclosure or answer or produce documents; sanctions; enforcement.

(a) *Motion for order to compel initial disclosures or compliance with discovery requests.* (1) A party may file a motion pursuant to § 502.69 for an order compelling compliance with the requirement for initial disclosures provided in § 502.201 or with its discovery requests as provided in this subpart, if a deponent fails to answer a question asked at a deposition or by written questions; a corporation or other entity fails to make a designation of an individual who will testify on its behalf; a party fails to answer an interrogatory; or a party fails to respond that inspection will be permitted, or fails to permit inspection, as requested under § 502.206 of this subpart. For purposes of this section, a failure to make a disclosure, answer, or respond includes an evasive or incomplete disclosure, answer, or response.

(2) A motion to compel must include:

(i) A certification that the moving party has conferred in good faith or attempted to confer with the party failing to make initial disclosure or respond to discovery requests as provided in this subpart in an effort to obtain compliance without the necessity of a motion;

(ii) A copy of the discovery requests that have not been answered or for which evasive or incomplete responses have been given. If the motion is limited to specific discovery requests, only those requests are to be included;

(iii) If a disclosure has been made or an answer or response has been given, a copy of the disclosure, answer, or response in its entirety;

(iv) A copy of the certificate of service that accompanied the discovery request; and

(v) A request for relief and supporting argument, if any.

(3) A party may file a response to the motion within 7 days of the service date of the motion. Unless there is a dispute with respect to the accuracy of the versions of the discovery requests, responses thereto, or the disclosures submitted by the moving party, the response must not include duplicative copies of them.

(4) A reply to a response is not allowed unless requested by the presiding officer, or upon a showing of extraordinary circumstances.

(b) *Failure to comply with order compelling disclosures or discovery.* If a party or a party's officer or authorized representative fails or refuses to obey an order requiring it to make disclosures or to respond to discovery requests, the presiding officer upon his or her own initiative or upon motion of a party may make such orders in regard to the failure or refusal as are just. A motion must include a certification that the moving party has conferred in good faith or attempted to confer with the disobedient party in an effort to obtain compliance without the necessity of a motion. An order of the presiding officer may:

(1) Direct that the matters included in the order or any other designated facts must be taken to be established for the purposes of the action as the party making the motion claims;

(2) Prohibit the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence; or

(3) Strike pleadings in whole or in part; staying further proceedings until the order is obeyed; or dismissing the action or proceeding or any party thereto, or rendering a decision by default against the disobedient party.

(c) *Enforcement of orders and subpoenas.* In the event of refusal to obey an order or failure to comply with a subpoena, the Attorney General at the request of the Commission, or any party injured thereby may seek enforcement by a United States district court having jurisdiction over the parties. Any action with respect to enforcement of subpoenas or orders relating to depositions, written interrogatories, or other discovery matters must be taken within 20 days of the date of refusal to obey or failure to comply. A private party must advise the Commission 5 days (excluding Saturdays, Sundays and legal holidays) before applying to the court of its intent to seek enforcement of such subpoenas and discovery orders.

(d) *Persons and documents located in a foreign country.* Orders of the presiding officer directed to persons or documents located in a foreign country must become final orders of the Commission unless an appeal to the Commission is filed within 10 days after date of issuance of such orders or unless the Commission on its own motion reverses, modifies, or stays such rulings within 20 days of their issuance. Replies to appeals may be filed within 10 days. No motion for leave to appeal is necessary in such instances and no orders of the presiding officer must be effective until 20 days from date of issuance unless the Commission otherwise directs. [Rule 210.]

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2012–24388 Filed 10–9–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 11–69 and ET Docket 09–234; FCC 12–114]

Private Land Mobile Radio Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission modifies its rules to permit the certification and use of Terrestrial Trunked Radio (TETRA) equipment. These amendments are necessary in order to permit implementation of TETRA technology in the United States.

DATES: Effective November 9, 2012.

FOR FURTHER INFORMATION CONTACT: Tim Maguire, Mobility Division, Wireless Telecommunications Bureau at (202) 418–2155, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report*

and Order (*R&O*), adopted September 19, 2012, and released September 21, 2012. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Summary

1. The Commission, in effort to bring into conformity all of it's part 90 technical rules, via the *NPRM,* published at 76 FR 27296, May 11, 2011, proposed to amend part 90 of its rules to accommodate TETRA technology. This R&O amends part 90 of the Commission's rules that govern bandwidth limits and emission masks to permit the certification and use of Terrestrial Trunked Radio (TETRA) equipment in both the 450–470 MHz portion of the UHF band, and in the Business/Industrial Land Transportation 800 MHz band channels (809–824/854–869) that are not in the National Public Safety Planning Advisory Committee (NPSPAC) portion of the band. These amendments will give private land mobile radio (PLMR) licensees additional equipment alternatives without increasing the potential for interference or other adverse effects on other licensees.

I. Procedural Matters

A. Final Regulatory Flexibility Analysis

2. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), and Initial Regulatory Flexibility Analysis (IRFA) was included in the *Notice of Proposed Rulemaking* in WT Docket No. 11–69 and ET Docket No. 09–234. The Commission sought written public comment on the proposals in these dockets, including comment on the IRFA. The Commission has prepared a Final Regulatory Flexibility Analysis (''FRFA'') of the possible significant economic impact on small entities by the policies and rules addressed in this document. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

B. Final Paperwork Reduction Act Analysis

3. The *R&O* does not contain proposed new or modified information collection requirements.

C. Congressional Review Act

4. The Commission will send a copy of this *Report and Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

II. Need for, and Objectives of, the Final Rules

5. The rules adopted in this *Report and Order* are intended to amend the Part 90 rules for authorized bandwidth and emission masks in order to permit the implementation in the United States of land mobile radio equipment utilizing Terrestrial Trunked Radio (TETRA) technology. TETRA is a spectrally efficient digital technology that we believe can provide valuable benefits to land mobile radio users.

III. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

6. No parties have raised significant issues in response to the IRFA.

IV. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

7. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. *See* 5 U.S.C. 603(b)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' *See* 5 U.S.C. 601(6). In addition, pursuant to 5 U.S.C. 601(3) and 15 U.S.C. 632, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

8. Nationwide, there are a total of 22.4 million small businesses, according to SBA data. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' *See SBA, Programs and Services, SBA Pamphlet No. CO–0028, at p. 40 (July 2002).* According to the *–Independent Section, The New Nonprofit Alamanac & Desk Reference (2002),* Nationwide, there were approximately 1.6 million small organizations. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' *See* U.S.C. 601(5). Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.[1] We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.'' [2] Thus, we estimate that most governmental jurisdictions are small. Below, we further describe and estimate the number of small entities, applicants and licensees, that may be affected by our action.

9. *Private Land Mobile Radio Licensees.* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. *See 13 CFR 121.201, NAICS code 517210.* The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. We note that PLMR licensees generally use the licensed facilities in support of other business activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs. *See 13 CFR 121.201.*

10. As of March 2010, there were 424,162 PLMR licensees operating 921,909 transmitters in the PLMR bands below 512 MHz. We note that any entity engaged in a commercial activity is eligible to hold a PLMR license, and that

[1] U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

[2] We assume that the villages, school districts, and special districts are small and total 48,558. *See* U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, p. 273, Table 417. For 2002, Census Bureau data indicate that the total number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

any revised rules in this context could therefore potentially impact small entities covering a great variety of industries.

11. *RF Equipment Manufacturers.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' *See U.S. Census Bureau, 202 NAICS Definitions, ''334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing''; http://www.census.gov/epcd/naics02/def/NDEF334.HTM#N3342*. The SBA small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing is all such firms having 750 or fewer employees. *See 13 CFR 121.201, NAICS code 334220.* According to Census Bureau data for 2007, there were a total of 919 establishments in this category that operated for the entire year. Of this total, 771 had fewer than 100 employees and 148 had more than 100 employees. *See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-_skip=4500&-ds_name=EC0731SG3&-_lang=en.* Thus, under this size standard, the majority of firms can be considered small.

V. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

12. There are no projected reporting, recordkeeping or other compliance requirements.

VI. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

13. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. *See 603(c)(1)–(4).*

14. None of the decisions in this *Report and Order* impose any adverse burden of significant economic impact on small entities. Accordingly, there is no need to consider significant alternatives.

VII. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

15. None.

16. Pursuant to sections 1, 4(i), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(f), 303(g), and 303(r), this *Report and Order is adopted.*

17. Part 90 of the Commission's rules *is amended* as set forth below, and will become effective November 9, 2012.

18. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

PART 90—Private Land Mobile Radio Services

■ 1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 2. Section 90.209 is amended by adding footnote 6 to the table in paragraph (b)(5) to read as follows:

§ 90.209 Bandwidth limitations.

* * * * *

(b) * * *

(5) * * *

STANDARD CHANNEL SPACING/BANDWIDTH

Frequency band (MHz)	Channel spacing (kHz)	Authorized bandwidth (kHz)
* * * * *	*	*
406–512 [2]	[1] 6.25	[1] [3] [6] 20/11.25/6
* * * * *	*	*
809–824/854–869	25	[6] 20
* * * * *	*	*

[1] For stations authorized on or after August 18, 1995.

[2] Bandwidths for radiolocation stations in the 420–450 MHz band and for stations operating in bands subject to this footnote will be reviewed and authorized on a case-by-case basis.

[3] Operations using equipment designed to operate with a 25 kHz channel bandwidth will be authorized a 20 kHz bandwidth. Operations using equipment designed to operate with a 12.5 kHz channel bandwidth will be authorized a 11.25 kHz bandwidth. Operations using equipment designed to operate with a 6.25 kHz channel bandwidth will be authorized a 6 kHz bandwidth. All stations must operate on channels with a bandwidth of 12.5 kHz or less beginning January 1, 2013, unless the operations meet the efficiency standard of § 90.203(j)(3).

* * * * * * *

[6] Operations using equipment designed to operate with a 25 kHz channel bandwidth may be authorized up to a 22 kHz bandwidth if the equipment meets the Adjacent Channel Power limits of § 90.221.

* * * * *

■ 3. Section 90.210 is amended by adding footnote 5 to the table to read as follows:

§ 90.210 Emission masks.

* * * * *

APPLICABLE EMISSION MASKS

Frequency band (MHz)	Mask for equipment with audio low pass filter	Mask for equipment without audio low pass filter
* * * *	* *	*
421–512 [2] [5]	B, D, or E	C, D, or E.
* * * *	* *	*
809–824/854–869 [3] [5]	B	G.
* * * *	* *	*

* * * * * * *

[2] Equipment designed to operate with a 25 kHz channel bandwidth must meet the requirements of Emission Mask B or C, as applicable. Equipment designed to operate with a 12.5 kHz channel bandwidth must meet the requirements of Emission Mask D, and equipment designed to operate with a 6.25 kHz channel bandwidth must meet the requirements of Emission Mask E.

* * * * * * *

[3] Equipment used in this licensed to EA or non-EA systems shall comply with the emission mask provisions of § 90.691.

[5] Equipment may alternatively meet the Adjacent Channel Power limits of § 90.221.

* * * * *

■ 4. Add § 90.221 to subpart I to read as follows:

§ 90.221 Adjacent channel power limits.

(a) For the frequency bands indicated below, operations using equipment designed to operate with a 25 kHz channel bandwidth may be authorized up to a 22 kHz bandwidth if the equipment meets the adjacent channel power (ACP) limits below. The table specifies a value for the ACP as a function of the displacement from the channel center frequency and a measurement bandwidth of 18 kHz.

(b)(1) Maximum adjacent power levels for frequencies in the 450–470 MHz band:

Frequency offset	Maximum ACP (dBc) for devices 1 watt and less	Maximum ACP (dBc) for devices above 1 watt
25 kHz	−55 dBc	−60 dBc
50 kHz	−70 dBc	−70 dBc
75 kHz	−70 dBc	−70 dBc

(2) In any case, no requirement in excess of −36 dBm shall apply.

(c)(1) Maximum adjacent power levels for frequencies in the 809–824/854–869 MHz band:

Frequency offset	Maximum ACP (dBc) for devices less than 15 watts	Maximum ACP (dBc) for devices 15 watts and above
25 kHz	−55 dBc	−55 dBc
50 kHz	−65 dBc	−65 dBc
75 kHz	−65 dBc	−70 dBc

(2) In any case, no requirement in excess of −36 dBm shall apply.

(d) On any frequency removed from the assigned frequency by more than 75 kHz, the attenuation of any emission must be at least 43 + 10 log (P_{watts}) dB.

[FR Doc. 2012–24792 Filed 10–9–12; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 77, No. 196
Wednesday, October 10, 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 39

[Docket No. FAA–2012–1067; Directorate Identifier 2011–NM–231–AD]

RIN 2120–AA64

Airworthiness Directives; DASSAULT AVIATION Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain DASSAULT AVIATION Model FALCON 2000, FALCON 2000EX, MYSTERE–FALCON 900 and FALCON 900EX airplanes; and all Model MYSTERE–FALCON 50 airplanes. This proposed AD was prompted by reports that collapse of the main landing gear (MLG) could cause wing tank structure failure, which could result in fuel spillage and consequent fire hazard. This proposed AD would require modification of the wing fuel tanks in the area of the wheel well. We are proposing this AD to prevent fuel spillage in the event of a MLG collapse, and consequent fire hazard.

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

For service information identified in this proposed AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1067; Directorate Identifier 2011–NM–231–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0193, dated October 5, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> In service experience has shown that, in case of main landing gear collapse due to overloads during take off or landing (e.g., during high-speed runway excursions), the wing tank structure can fail, leading to fuel spillage. * * *
>
> This condition, if not corrected, could result, in case of main landing gear collapse, in a fuel spillage which may constitute a fire hazard.
>
> To address this unsafe condition, Dassault Aviation have developed a structural modification of the wing fuel tanks in the area of the wheel well which introduces a dry bay by adding a sealed boundary in front of the rear spar between ribs 4 and 5.
>
> For the reasons described above, this [EASA] AD requires accomplishment of the above-mentioned modification for the Right Hand (RH) and Left Hand (LH) wing fuel tanks.

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

Relevant Service Information

Dassault Aviation has issued the following service information. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

- Dassault Mandatory Service Bulletin F50–496, Revision 2, dated March 10, 2010 (for Model MYSTERE–FALCON 50 airplanes), which includes the following appendices:
- Appendix 1, Revision 2, dated February 15, 2010.
- Appendix 2, Revision 3, dated February 15, 2009.
- Appendix 3, Revision 2, dated October 21, 2009.
- Appendix 4, Revision 1, dated October 20, 2009.
- Appendix 5, Revision 3, dated March 10, 2010.
- Dassault Mandatory Service Bulletin F900EX–329, Revision 3, dated March 10, 2010 (for Model FALCON 900EX airplanes), which includes the following appendices:
- Appendix 1, Revision 2, dated February 15, 2010.

- Appendix 2, Revision 3, dated February 15, 2009.
- Appendix 3, Revision 2, dated October 21, 2009.
- Appendix 4, Revision 1, dated October 20, 2009.
- Appendix 5, Revision 3, dated March 10, 2010.
- Dassault Mandatory Service Bulletin F900–388, Revision 2, dated March 10, 2010 (for Model MYSTERE–FALCON 900 airplanes), which includes the following appendices:
- Appendix 1, Revision 2, dated February 15, 2010.
- Appendix 2, Revision 3, dated February 15, 2009.
- Appendix 3, Revision 2, dated October 21, 2009.
- Appendix 4, Revision 1, dated October 20, 2009.
- Appendix 5, Revision 3, dated March 10, 2010.
- Dassault Mandatory Service Bulletin F2000–358, Revision 3, dated March 10, 2010 (for Model FALCON 2000 airplanes), which includes the following appendices:
- Appendix 1, Revision 2, dated February 15, 2010.
- Appendix 2, Revision 3, dated February 15, 2009.
- Appendix 3, Revision 2, dated October 21, 2009.
- Appendix 4, Revision 1, dated October 20, 2009.
- Appendix 5, Revision 3, dated March 10, 2010.
- Dassault Mandatory Service Bulletin F2000EX–171, Revision 3, dated March 10, 2010 (for Model FALCON 2000EX airplanes), which includes the following appendices:
- Appendix 1, Revision 2, dated February 15, 2010.
- Appendix 2, Revision 3, dated February 15, 2009.
- Appendix 3, Revision 2, dated October 21, 2009.
- Appendix 4, Revision 1, dated October 20, 2009.
- Appendix 5, Revision 3, dated March 10, 2010.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 753 products of U.S. registry. We also estimate that it would take about 640 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $18,500 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $54,893,700, or $72,900 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2012–1067; Directorate Identifier 2011–NM–231–AD.

(a) Comments Due Date

We must receive comments by November 26, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category.

(1) Dassault Aviation Model FALCON 2000 and FALCON 2000EX airplanes, all serial numbers, except those on which modification M3072 has been installed.

(2) DASSAULT AVIATION Model MYSTERE–FALCON 50 airplanes, all serial numbers.

(3) DASSAULT AVIATION Model MYSTERE–FALCON 900 and FALCON 900EX airplanes, all serial numbers, except those on which modification M5413 has been installed.

(d) Subject

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

(e) Reason

This AD was prompted by reports that collapse of the main landing gear (MLG) could cause wing tank structure failure, which could result in fuel spillage and a consequent fire hazard. We are issuing this AD to prevent fuel spillage in the event of a MLG collapse, and consequent fire hazard.

(f) Compliance

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

(g) Modification

Within 150 months after the effective date of this AD, do the modification of the right-hand and left-hand wing fuel tanks, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraph (g)(1), (g)(2), (g)(3), (g)(4), or (g)(5) of this AD, as applicable. The service information specified in paragraphs (g)(1) through (g)(5) of this AD contain a paragraph which states that each person applying the service bulletins must have successfully completed a training program. This training is recommended but is not required by this AD.

(1) For Model MYSTERE–FALCON 50 airplanes: Dassault Mandatory Service Bulletin F50–496, Revision 2, dated March 10, 2010, which includes the following appendices.

(i) Appendix 1, Revision 2, dated February 15, 2010.

(ii) Appendix 2, Revision 3, dated February 15, 2009.

(iii) Appendix 3, Revision 2, dated October 21, 2009.

(iv) Appendix 4, Revision 1, dated October 20, 2009.

(v) Appendix 5, Revision 3, dated March 10, 2010.

(2) For Model FALCON 900EX airplanes: Dassault Mandatory Service Bulletin F900EX–329, Revision 3, dated March 10, 2010, which includes the following appendices.

(i) Appendix 1, Revision 2, dated February 15, 2010.

(ii) Appendix 2, Revision 3, dated February 15, 2009.

(iii) Appendix 3, Revision 2, dated October 21, 2009.

(iv) Appendix 4, Revision 1, dated October 20, 2009.

(v) Appendix 5, Revision 3, dated March 10, 2010.

(3) For Model MYSTERE–FALCON 900 airplanes: Dassault Mandatory Service Bulletin F900–388, Revision 2, dated March 10, 2010, which includes the following appendices.

(i) Appendix 1, Revision 2, dated February 15, 2010.

(ii) Appendix 2, Revision 3, dated February 15, 2009.

(iii) Appendix 3, Revision 2, dated October 21, 2009.

(iv) Appendix 4, Revision 1, dated October 20, 2009.

(v) Appendix 5, Revision 3, dated March 10, 2010.

(4) For Model FALCON 2000 airplanes: Dassault Mandatory Service Bulletin F2000–358, Revision 3, dated March 10, 2010, which includes the following appendices.

(i) Appendix 1, Revision 2, dated February 15, 2010.

(ii) Appendix 2, Revision 3, dated February 15, 2009.

(iii) Appendix 3, Revision 2, dated October 21, 2009.

(iv) Appendix 4, Revision 1, dated October 20, 2009.

(v) Appendix 5, Revision 3, dated March 10, 2010.

(5) For Model FALCON 2000EX airplanes: Dassault Mandatory Service Bulletin F2000EX–171, Revision 3, dated March 10, 2010, which includes the following appendices.

(i) Appendix 1, Revision 2, dated February 15, 2010.

(ii) Appendix 2, Revision 3, dated February 15, 2009.

(iii) Appendix 3, Revision 2, dated October 21, 2009.

(iv) Appendix 4, Revision 1, dated October 20, 2009.

(v) Appendix 5, Revision 3, dated March 10, 2010.

(h) Credit for Previous Actions

This paragraph provides credit for the modifications required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information (which is not incorporated by reference in this AD) specified in paragraphs (h)(1) through (h)(5) of this AD, as applicable.

(1) For Model MYSTERE–FALCON 50 airplanes:

(i) Dassault Mandatory Service Bulletin F50–496, dated October 22, 2009, which includes the following appendices.

(A) Appendix 1, Revision 1, dated October 21, 2009.

(B) Appendix 2, Revision 2, dated October 21, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 2, dated October 22, 2009.

(ii) Dassault Mandatory Service Bulletin F50–496, Revision 1, dated February 15, 2010, which includes the following appendices.

(A) Appendix 1, Revision 2, dated February 15, 2010.

(B) Appendix 2, Revision 3, dated February 15, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 3, dated March 10, 2010.

(2) For Model FALCON 900EX airplanes:

(iii) Dassault Mandatory Service Bulletin F900EX–329, dated September 25, 2009, which includes the following appendices.

(A) Appendix 1, dated July 6, 2009.

(B) Appendix 2, dated July 6, 2009.

(C) Appendix 3, Revision 1, dated September 25, 2009.

(D) Appendix 4, dated July 6, 2009.

(E) Appendix 5, Revision 1, dated September 24, 2009.

(iv) Dassault Mandatory Service Bulletin F900EX–329, Revision 1, dated October 22, 2009, which includes the following appendices.

(A) Appendix 1, Revision 1, dated October 21, 2009.

(B) Appendix 2, Revision 2, dated October 21, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 2, dated October 22, 2009.

(v) Dassault Mandatory Service Bulletin F900EX–329, Revision 2, dated February 15, 2010, which includes the following appendices.

(A) Appendix 1, Revision 2, dated February 15, 2010.

(B) Appendix 2, Revision 3, dated February 15, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 3, dated March 10, 2010.

(3) For Model MYSTERE–FALCON 900 airplanes:

(i) Dassault Mandatory Service Bulletin F900–388, dated October 22, 2009, which includes the following appendices.

(A) Appendix 1, Revision 1, dated October 21, 2009.

(B) Appendix 2, Revision 2, dated October 21, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 2, dated October 22, 2009.

(ii) Dassault Mandatory Service Bulletin F900–388, Revision 1, dated February 15, 2010, which includes the following appendices.

(A) Appendix 1, Revision 2, dated February 15, 2010.

(B) Appendix 2, Revision 3, dated February 15, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 3, dated March 10, 2010.

(4) For Model FALCON 2000 airplanes:

(i) Dassault Mandatory Service Bulletin F2000–358, dated September 25, 2009, which includes the following appendices.

(A) Appendix 1, dated July 6, 2009.

(B) Appendix 2, dated July 6, 2009.

(C) Appendix 3, Revision 1, dated September 25, 2009.

(D) Appendix 4, dated July 6, 2009.

(E) Appendix 5, Revision 1, dated September 24, 2009.

(ii) Dassault Mandatory Service Bulletin F2000–358, Revision 1, dated October 30, 2009, which includes the following appendices.

(A) Appendix 1, Revision 1, dated October 21, 2009.

(B) Appendix 2, Revision 2, dated October 21, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 2, dated October 22, 2009.

(iii) Dassault Mandatory Service Bulletin F2000–358, Revision 2, dated February 15, 2010, which includes the following appendices.

(A) Appendix 1, Revision 2, dated February 15, 2010.

(B) Appendix 2, Revision 3, dated February 15, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 3, dated March 10, 2010.

(5) For Model FALCON 2000EX airplanes:

(i) Dassault Mandatory Service Bulletin F2000EX–171, dated July 6, 2009, which includes the following appendices.

(A) Appendix 1, dated July 6, 2009.

(B) Appendix 2, dated July 6, 2009.

(C) Appendix 3, dated July 6, 2009.

(D) Appendix 4, dated July 6, 2009.

(E) Appendix 5, dated July 6, 2009.

(ii) Dassault Mandatory Service Bulletin F2000EX–171, Revision 1, dated October 22, 2009, which includes the following appendices.

(A) Appendix 1, Revision 1, dated October 21, 2009.

(B) Appendix 2, Revision 2, dated October 21, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 2, dated October 22, 2009.

(iii) Dassault Mandatory Service Bulletin F2000EX–171, Revision 2, dated February 15, 2010, which includes the following appendices.

(A) Appendix 1, Revision 2, dated February 15, 2010.

(B) Appendix 2, Revision 3, dated February 15, 2009.

(C) Appendix 3, Revision 2, dated October 21, 2009.

(D) Appendix 4, Revision 1, dated October 20, 2009.

(E) Appendix 5, Revision 3, dated March 10, 2010.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0193, dated October 5, 2011, and the service information specified in paragraphs (g)(1) through (g)(5) of this AD, for related information.

Issued in Renton, Washington, on September 26, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24808 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1068; Directorate Identifier 2011–NM–073–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede two existing airworthiness directives (AD) that apply to certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The existing AD, for certain Model 737–100, –200, and –200C series airplanes currently requires repetitive inspections of the aft end of each inboard flap track of the wing outboard flap, and corrective actions, if necessary. The existing AD, for certain Model 737–100, –200, –200C, –300, –400, and –500 series airplanes requires repetitive inspections for cracks in the upper flange of the inboard track at the rear spar attachments of each outboard flap, and corrective action, if necessary. That AD also requires, for certain airplanes, repetitive inspections for discrepancies of the rear spar attachments and cracks in the upper flange of the inboard track at the rear spar attachment of each outboard flap, and eventual rework of the flap track assembly and rear spar attachments, including replacement of the flap track with a new track, if necessary. Since we issued those ADs, we have received reports that the work sequence and procedures used during track installation could also cause loose or cracked tracks. This proposed AD would require an inspection for damage and stop-drill repairs along the flap track; an inspection for damage, cracking, and stop-drill repairs along the track webs; and an inspection for damage of the flap track web and flanges, and corrective actions if necessary. This proposed AD would also require, for certain airplanes, an inspection for signs of movement between the tapered shim and anti-fret strip, installation of the anti-fret strip, and corrosion of the tapered shim and anti-fret strip; an inspection for signs of movement, cracks and corrosion where the track is attached to the wing rear spar; an inspection for cracking of the outboard edge of the track; an inspection for cracking of the inner edge of the track; and related investigative and corrective actions if necessary. This proposed AD would also require repetitive overhauls of the flap track and repetitive post-overhaul inspections and corrective actions if necessary; an inspection to determine the part number of the flap track assembly, and replacement of affected parts if necessary; and would also add airplanes to the applicability. We are proposing this AD to detect and correct cracking and damage in the flap track, which could cause loss of the outboard trailing edge flap and consequent reduced controllability of the airplane.

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

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on

the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax 425–917–6590; email: *nancy.marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1068; Directorate Identifier 2011–NM–073–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On December 5, 2000, we issued AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000), for certain Model 737–100, –200, and –200C series airplanes. That AD requires repetitive inspections of the aft end of each inboard flap track of the wing outboard flap, and corrective actions, if necessary. That AD resulted from reports of cracking of the aft end of an inboard flap track of the wing outboard flap found on a Model 737–200 series airplane having improved flap tracks installed. The inner and outer webs of the track, as well as the upper and lower flanges, were severed. We issued that AD to detect and correct damage of the aft end of each flap track, which could result in loss of the outboard trailing edge flap and consequent loss of controllability of the airplane.

On March 8, 2002, we issued AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002), for certain Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That AD requires, for certain airplanes, repetitive inspections for discrepancies of the rear spar attachments and cracks in the upper flange of the inboard track at the rear spar attachment of each outboard flap, and eventual rework of the flap track assembly and rear spar attachments, including replacement of the flap track with a new track, if necessary. For certain airplanes, that AD requires repetitive inspections for cracks in the upper flange of the inboard flap tracks at the rear spar attachments, and corrective action, if necessary. That AD resulted from several reports of cracking of the inboard track of the outboard flap. We issued that AD to detect and correct discrepancies of the inboard tracks of the outboard flaps, which could result in loss of the outboard trailing edge flaps and consequent reduced controllability of the airplane.

Actions Since Existing ADs 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000); and 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002); Were Issued

Since we issued ADs 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000); and 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002); we have received reports that the work sequence and procedures used during track installation could also cause loose tracks, causing the track to move laterally at the rear spar joint when full torque is applied to the forward attach bolt, putting a side load on the inboard aft attach bolt. Because of friction caused by tightening to the specified torque value, the torque applied to the bolt is not sufficient to hold the track tight against the rear spar structure. Continued operation with a cracked or loose attachment at the rear spar could cause the track to break, which could result in the loss of the outboard trailing edge flap and consequent loss of controllability of the airplane.

Relevant Service Information

We reviewed Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, for all Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This service information describes procedures for a detailed inspection for damage (cracks, nicks, corrosion pits, galling, pieces broken off) and stop-drill repairs along the full length of the upper and lower flanges of the flap track; a detailed inspection for damage, cracking, and stop-drill repairs along the full length of the track webs; an eddy current inspection for damage (including cracking) of the flap track web and flanges; and corrective actions if necessary. Corrective actions include repairing damage and replacing flap tracks.

Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, also describes, for certain airplanes, procedures for a detailed inspection for signs of movement between the tapered shim and anti-fret strip installation of the anti-fret strip, and corrosion of the tapered shim and anti-fret strip; a detailed inspection for signs of movement, cracks and corrosion of the area where the track is attached to the wing rear spar; an eddy current inspection for cracking of the outboard edge of the track adjacent to the outboard attach bolt; an ultrasonic inspection for cracking of the inner edge of the track adjacent to the outboard attach bolt; and related investigative and corrective actions if necessary. The related investigative actions (which include disassembly of the flap track-to-wing attachment) include the following inspections.

- A detailed inspection of the anti-fret strip for signs that show the strip is loose or damaged and to determine if the anti-fret strip is made of phenolic.
- A detailed inspection of the tapered shim for damage and corrosion, and to determine if the shim is made of laminated material and the shim width is less than 1.70 inches.
- A detailed inspection of the track in the area where it is fitted against the wing skin for corrosion on the surface and corrosion in the bolt holes.
- A detailed inspection of the bushing for corrosion.
- An eddy current inspection or magnetic particle inspection for cracking on the upper surface of the track flange adjacent to the inboard and outboard bolt holes.
- An eddy current inspection or magnetic particle inspection of the inboard and outboard bolt holes for cracking.

The corrective actions include installing a new anti-fret strip, tapered shim, or bushing; removing or repairing corrosion; and removing damage and replacing the flap track.

Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, also describes procedures for repetitive overhauls of the flap track and repetitive post-overhaul inspections and corrective actions if necessary.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would retain all requirements of AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000); and all requirements of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002). This proposed AD would require new inspections and overhauls of the flap track assembly. This proposed AD would also require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the AD and the Service Information.''

Changes to Existing ADs 2000–25–07 Amendment 39–12041 (65 FR 78913, December 18, 2000); and 2002–05–07 Amendment 39–12675 (67 FR 11891, March 18, 2002)

Since ADs 2000–25–07 Amendment 39–12041 (65 FR 78913, December 18, 2000); and 2002–05–07 Amendment 39–12675 (67 FR 11891, March 18, 2002); were issued, the AD format has been revised, and certain paragraphs have been re-arranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in previous ADs 2000–25–07 Amendment 39–12041 (65 FR 78913, December 18, 2000); and 2002–05–07 Amendment 39–12675 (67 FR 11891, March 18, 2002)	Corresponding requirement in this proposed AD
paragraph (a) of AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000)	paragraph (g).
paragraph (b) of AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000)	paragraph (i).
paragraph (a) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002)	paragraph (j).
paragraph (b) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002)	paragraph (l).
paragraph (c) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002)	paragraph (m).
paragraph (d) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002)	paragraph (n).
paragraph (e) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002)	paragraph (o).

The reference to ''the service bulletin'' in paragraph (e) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002) has been spelled out with the full citation, ''Boeing Service Bulletin 737–57A1249, Revision 1, including Appendix A, dated June 1, 2000,'' in paragraph (o) of this proposed AD. Boeing Commercial Airplanes has received an Organization Designation Authorization (ODA). We have revised paragraphs (i) and (o) of this AD to delegate the authority to approve an alternative method of compliance for any repair required by this proposed AD to the Boeing Commercial Airplanes ODA rather than a Designated Engineering Representative (DER).

Note 2 of AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000), has been changed to paragraph (h) of this proposed AD.

Note 3 of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002), has been changed to paragraph (k) of this proposed AD which provides credit for previous accomplishment of certain actions.

We have also revised certain headings throughout this AD.

Differences Between the Proposed AD and the Service Information

Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, specifies procedures to inspect for installation of an anti-fret strip but does not specify on-condition actions if the anti-fret strip is missing. If an anti-fret strip is not found installed, this proposed AD would require that the related investigative actions specified for anti-fret strips that have signs of damage or corrosion are done, and corrective actions if necessary, including making and installing a new anti-fret strip, are done in accordance with paragraph 3.B.5 of the Accomplishment Instructions of Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012.

Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, specifies procedures to remove certain flap track assemblies if found. This proposed AD would require an inspection to determine the part number of the flap track assembly and replacement of affected parts if necessary.

Explanation of Change to Costs of Compliance

Since issuance of AD 2002–05–07, Amendment 39–12041 (65 FR 78913, December 18, 2000), we have increased the labor rate used in the Costs of Compliance from $60 per work-hour to $85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified hourly labor rate.

Costs of Compliance

We estimate that this proposed AD affects 570 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Number of airplanes	Cost on U.S. operators
Detailed visual inspection [retained actions from existing AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000)].	6 work-hours × $85 per hour = $510.	$0	$510	290	$147,900.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Number of airplanes	Cost on U.S. operators
Detailed visual, HFEC, and ultrasonic inspections [retained actions from existing AD 2002–05–07, Amendment 39-12675 (67 FR 11891, March 18, 2002)].	4 work-hours × $85 per hour = $340.	$0	$340	1,100	$374,000.
Detailed and eddy current inspections [new proposed actions].	82 work-hours × $85 per hour = $6,970 per inspection cycle.	$0	$6,970 per inspection cycle.	570	$3,972,900 per inspection cycle.
Overhaul [new proposed action]	70 work-hours × $85 per hour = 5,950 per overhaul cycle.	$20,000	$25,950 per overhaul cycle.	570	$14,791,500 per overhaul cycle.

We have received no definitive data that would enable us to provide cost estimates for labor cost for repair, and parts cost for repair and replacement for the on-condition actions specified in this proposed AD. The labor cost of the replacement is $1,360 (16 work-hours × $85 per hour). We have no way of determining the number of aircraft that might need these repairs/replacements.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directives (AD) 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000); and 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002); and adding the following new AD:

The Boeing Company: Docket No. FAA–2012–1068; Directorate Identifier 2011–NM–073–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by November 26, 2012.

(b) Affected ADs

This AD supersedes ADs 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000); and 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002).

(c) Applicability

This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports that the work sequence and procedures used during installation of replacement tracks installed in accordance with AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000); or AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002); could cause loose or cracked tracks. We are issuing this AD to detect and correct cracking and damage in the flap track, which could cause loss of the outboard trailing edge flap and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Retained Repetitive Inspections

This paragraph restates the inspection required by paragraph (a) of AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000), with added references to a terminating action. For Model 737–100, –200, and –200C series airplanes on which the left- or right-hand inboard flap tracks of the wing outboard flap have a part number (P/N) listed in Table 1 of this AD: Do a detailed visual inspection to detect damage (corrosion, cracking) of the aft end of the left- and right-hand inboard flap tracks of the wing outboard flap, per Boeing All Operator Message (AOM) M–7200–00–01854, dated July 27, 2000, at the latest of the times specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD. Repeat the inspection thereafter at intervals not to exceed 1,200 flight cycles. Accomplishing the requirements of paragraph (p) of this AD terminates the requirements of this paragraph.

TABLE 1—BOEING FLAP TRACKS SUBJECT TO THIS AD

Name	Part No.
Boeing	65–46428–9 65–46428–15

TABLE 1—BOEING FLAP TRACKS SUBJECT TO THIS AD—Continued

Name	Part No.
	65–46428–17 65–46428–19 65–46428–21 65–46428–23 65–46428–25 65–46428–27 65–46428–33 65–46428–35

(1) Within 30 days after January 2, 2001 (the effective date of AD 2000–25–07 Amendment 39–12041 (65 FR 78913, December 18, 2000)).

(2) Within 1,200 flight cycles after the last documented inspection or overhaul of the aft end of each flap track.

(3) Before the accumulation of 15,000 total flight cycles.

(h) Retained Definition

This paragraph restates the definition specified by Note 2 of AD 2000–25–07 Amendment 39–12041 (65 FR 78913, December 18, 2000). For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate by the inspector. Inspection aids such as a mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(i) Retained Corrective Actions

This paragraph restates the corrective actions required by paragraph (b) of AD 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000), with added reference to organization designation authorization (ODA). If any damage (corrosion, cracking) is detected during any inspection required by paragraph (g) of this AD, before further flight, repair or rework the flap track per the ''Repair and Rework Instructions'' specified in Boeing AOM M–7200–00–01854, dated July 27, 2000. Where that AOM specifies that the manufacturer may be contacted for disposition of certain corrective actions (*i.e.,* repair and/or rework of the flaps), this AD requires such repair and/or rework to be done per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company designated engineering representative (DER) or the Boeing Commercial Airplanes ODA who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the ODA, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(j) Retained Initial Inspections

This paragraph restates the initial inspection required by paragraph (a) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002), with added references to terminating action. For Model 737–100, –200, and –200C series airplanes with line numbers (L/N) 1 through 869 inclusive, and those airplanes with L/Ns 870 through 1585 inclusive, which either still have their original flap tracks or which have had the original flap tracks replaced with certain tracks as specified in Boeing Service Bulletin 737–57A1249, Revision 1, including Appendix A, dated June 1, 2000; except airplanes on which any replacement flap tracks were installed as specified in Boeing Service Bulletin 737–57–1203, dated November 15, 1990, or production equivalent: Within 6 months after April 22, 2002 (the effective date of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002)), accomplish the requirements of paragraphs (j)(1) and (j)(2) of this AD, according to Boeing Service Bulletin 737–57A1249, Revision 1, including Appendix A, dated June 1, 2000. Accomplishing the requirements of paragraph (p) of this AD terminates the requirements of this paragraph.

(1) Perform a detailed visual inspection for discrepancies (*e.g.,* corrosion, or missing, damaged, or migrated anti-fret strips and tapered shims) of the rear spar attachments of the flap tracks.

(2) Perform detailed visual, high frequency eddy current (HFEC), and ultrasonic inspections for cracking in the upper flange of the inboard track of each outboard flap at the rear spar attachments.

(k) Retained Credit for Previous Actions

This paragraph restates the credit for certain previously accomplished actions specified by Note 3 of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002). This paragraph provides credit for the actions specified in paragraphs (j), (l), (m), and (n) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–57A1249, including Appendix A, dated December 16, 1999.

(l) Retained Repetitive Inspections

This paragraph restates the repetitive inspections required by paragraph (b) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002). For airplanes subject to the requirements of paragraph (j) of this AD: If no discrepancy is found during any inspection required by paragraph (j) of this AD, thereafter, repeat the inspections specified in paragraph (j) of this AD at intervals not to exceed 9 months, until the actions required by paragraph (m) or (p) of this AD have been accomplished.

(m) Retained Rework

This paragraph restates the rework required by paragraph (c) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002). For airplanes subject to the requirements of paragraph (j) of this AD: At the applicable time specified in paragraph (m)(1) or (m)(2) of this AD, accomplish rework of the flap track assembly and aft flap track attachments (including removal of the flap track; a detailed visual inspection for a missing, damaged, or migrated anti-fret strip and tapered shim of the rear spar attachments of the flap track; replacement of the anti-fret strip with a new aluminum anti-fret strip (or installation of an aluminum strip if no strip is installed), as applicable; replacement of the tapered shim with a new shim (or installation of a shim if no shim is installed); eddy current and ultrasonic inspections for fatigue cracking of the flap tracks; a detailed visual inspection for corrosion of the flap tracks; and rework of attachment holes), including replacement of the flap tracks, as applicable, by accomplishing all actions specified in Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–57A1249, Revision 1, including Appendix A, dated June 1, 2000. Do these actions according to the Accomplishment Instructions of Boeing Service Bulletin 737–57A1249, Revision 1, including Appendix A, dated June 1, 2000, except as provided by paragraph (o) of this AD. Accomplishment of the actions required by this paragraph terminates the repetitive inspections required by paragraph (l) of this AD. Accomplishing the requirements of paragraph (p) of this AD terminates the requirements of this paragraph.

(1) If no discrepancy is found during any inspection required by paragraph (j) or (l) of this AD: Do the rework within 24 months after April 22, 2002 (the effective date of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002).

(2) If any discrepancy is found during any inspection required by paragraph (j) or (l) of this AD: Do the rework prior to further flight.

(n) Retained Repetitive Inspections

This paragraph restates the repetitive inspections required by paragraph (d) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002). For Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, except airplanes on which any replacement flap tracks were installed as specified in Boeing Service Bulletin 737–57–1203, dated November 15, 1990, or production equivalent: At the applicable time specified in paragraph (n)(1) or (n)(2) of this AD, and thereafter at least every 24 months, perform detailed visual, HFEC, and ultrasonic inspections for cracking in the upper flange of the inboard track of each outboard flap at the rear spar attachments, according to Part I of the Accomplishment Instructions of Boeing Service Bulletin 737–57A1249, Revision 1, including Appendix A, dated June 1, 2000. Accomplishing the requirements of paragraph (p) of this AD terminates the requirements of this paragraph.

(1) For airplanes subject to paragraph (m) of this AD, do the inspections within 10 years after accomplishment of the rework according to paragraph (m) of this AD.

(2) For airplanes other than those identified in paragraph (n)(1) of this AD, do the inspections within 10 years since the airplane's date of manufacture, or within 6 months after April 22, 2002 (the effective date of AD 2002–05–07, Amendment 39–

12675 (67 FR 11891, March 18, 2002), whichever occurs later.

(o) Retained Repair Instructions and Exception to Procedures in Service Information

This paragraph restates the repair instructions and exception to procedures required by paragraph (e) of AD 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002). If any discrepancy is found during any action required by paragraph (j), (l), or (m) of this AD, and Boeing Service Bulletin 737–57A1249, Revision 1, including Appendix A, dated June 1, 2000, specifies to contact Boeing for appropriate action; or if any discrepancy is found during inspections according to paragraph (n) of this AD: Prior to further flight, repair according to a method approved by the Manager, Seattle ACO, FAA; or according to data meeting the type certification basis of the airplane approved by a Boeing Company DER or ODA who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the ODA, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

(p) New Inspection of Flap Track Web and Flanges

For all airplanes: At the times specified in paragraph (q) of this AD: Do the inspections specified in paragraphs (p)(1), (p)(2), (p)(3), and (p)(4) of this AD, and do all applicable corrective actions, in accordance with paragraph 3.B.3. of the Accomplishment Instructions of Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, except as required by paragraphs (r) and (v) of this AD. Performing these inspections terminates the requirements of paragraphs (g), (j) and (n) of this AD. Do all applicable corrective actions before further flight.

(1) Detailed inspection for damage (cracks, nicks, corrosion pits, galling, pieces broken off) and stop-drill repairs along the full length of the upper and lower flanges of the flap track.

(2) Detailed inspection for damage, cracking, and stop-drill repairs along the full length of the track webs.

(3) Eddy current inspection for damage (including cracking) of the flap track web and flanges.

(4) Inspection to determine the part number of the flap track assembly.

(q) New Compliance Time

At the latest of the applicable times specified in paragraphs (q)(1), (q)(2), and (q)(3) of this AD, do the actions required by paragraph (p) of this AD.

(1) Within 96 months since the flap track was new or overhauled, or prior to the accumulation of 15,000 flight cycles on the flap track since new or overhauled; whichever occurs first.

(2) Within 180 days after the effective date of this AD.

(3) Within 24 months after the most recent inspection was performed in accordance with Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 737–57A1249, including Appendix A, dated December 16, 1999; or Revision 1, including appendix A, dated June 1, 2000.

(r) Replacement

If, during any inspection required by paragraph (p) of this AD, any flap track assembly having P/N 65–46428–31 or 65–46428–33 is found, before further flight, replace the flap track assembly with a new or serviceable flap track assembly, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, except as required by paragraph (v) of this AD.

(s) New Inspections of Flap-to-Wing Attachment if Repairs Are Done or if No Damage Is Found in Flap Track Web and Flanges

For airplanes on which no damage is found in the flanges or the Web during any inspection required by paragraph (p) of this AD; and for airplanes on which a repair is done during any corrective action required by (p) of this AD; before further flight, do the inspections specified in paragraphs (s)(1) through (s)(4) of this AD, and do all applicable related investigative and corrective actions, in accordance with paragraphs 3.B.4 and 3.B.5 of the Accomplishment Instructions of Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, except as required by paragraph (v) of this AD. If, during the inspection required by paragraph (s)(1) of this AD, an anti-fret strip is not found installed, before further flight, do the related investigative actions specified in Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, for an anti-fret strip that has signs of damage or corrosion and do all applicable corrective actions, including making and installing a new anti-fret strip, in accordance with paragraph 3.B.5 of the Accomplishment Instructions of Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, except as required by paragraph (v) of this AD. Do all applicable related investigative and corrective actions before further flight.

(1) Detailed inspection for signs of movement between the tapered shim and anti-fret strip, installation of the anti-fret strip, and corrosion of the tapered shim and anti-fret strip.

(2) Detailed inspection for signs of movement, cracks and corrosion of the area where the track is attached to the wing rear spar.

(3) High frequency eddy current inspection for cracking of the outboard edge of the track adjacent to the outboard attach bolt.

(4) Ultrasonic inspection for cracking of the inner edge of the track adjacent to the outboard attach bolt.

(t) New Overhaul

Within 10,000 flight cycles on the flap track or 48 months, whichever occurs first after accomplishing the inspection required by paragraph (p) of this AD: Do an overhaul of the flap track, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, except as required by paragraph (v) of this AD. Repeat the overhaul thereafter at intervals not to exceed 20,000 flight cycles on the flap track or 96 months, whichever occurs first.

(u) New Post Overhaul Inspections

For airplanes on which any overhaul required by paragraph (t) of this AD is done: Do the inspections specified in paragraph (p) of this AD within 10,000 flight cycles on the flap track or 48 months after the most recent overhaul, whichever occurs first. Repeat the inspections specified in paragraph (p) of this AD thereafter at intervals not to exceed 10,000 flight cycles on the flap track or 48 months, whichever occurs first; except if an overhaul required by paragraph (t) of this AD is done, do the next inspection within 10,000 flight cycles or 48 months, whichever occurs first, after the overhaul.

(v) Service Information Exception

Where Boeing Service Bulletin 737–57A1271, Revision 3, dated February 13, 2012, specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (y) of this AD.

(w) New Parts Installation Prohibition

As of the effective date of this AD, no person may install a flap track assembly, P/N 65–46428–31 or 65–46428–33, on any airplane.

(x) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraphs (p) through (t) of this AD, if those actions were performed before the effective date of this AD, using the service bulletins specified in paragraph (x)(1), (x)(2), or (x)(3) of this AD.

(1) Boeing Alert Service Bulletin 737–57A1271, dated September 11, 2003, which is not incorporated by reference.

(2) Boeing Service Bulletin 737–57A1217, Revision 1, dated July 30, 2008, which is not incorporated by reference.

(3) Boeing Service Bulletin 737–51A1217, Revision 2, dated January 17, 2011, which is not incorporated by reference.

(y) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by The

Boeing Commercial Airplanes ODA that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with ADs 2000–25–07, Amendment 39–12041 (65 FR 78913, December 18, 2000); and 2002–05–07, Amendment 39–12675 (67 FR 11891, March 18, 2002); are approved as AMOCs for the corresponding requirements of this AD.

(z) Related Information

(1) For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *nancy.marsh@faa.gov*.

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

Issued in Renton, Washington, on September 27, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24809 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1041; Directorate Identifier 2011–NM–272–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 727 airplanes; Model 737–100, –200, and –200C series airplanes; and Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, 747SR, and 747SP series airplanes. This proposed AD was prompted by a report of an activation of the control column shaker during takeoff. This proposed AD would require performing a general visual inspection to determine if a certain angle of attack (AOA) sensor with a paddle type vane is installed, and, for affected sensors, performing an operational test of the stall warning system, and replacing the AOA sensor with a new sensor if necessary. We are proposing this AD to prevent erroneous activation of the control column shaker during takeoff, which could result in runway overrun, failure to clear terrain or obstacles after takeoff, or reduced controllability of the airplane.

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

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1041; Directorate Identifier 2011–NM–272–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received a report of an erroneous activation of the control column shaker during takeoff of a Model 747–400 airplane. The control column shaker activation continued while the airplane was in flight, and engine-indicating and crew-alerting system (EICAS) messages ALT DISAGREE and IAS DISAGREE displayed. The flightcrew used the alternate air data computer (left ADC) and the altitude and airspeed indications cancelled. After landing, the right ADC was replaced. On the subsequent flight the control column shaker operated again at takeoff and the flightcrew had to do a rejected takeoff (RTO). Troubleshooting steps found that the right AOA sensor was unserviceable. Inspection of the AOA sensors showed that the set screw connected to the synchro transmitter was not correctly attached to the AOA sensor shaft. Certain Model 727 and 737 airplanes also use Conrac/Ametek/Gulton AOA sensors that are equivalent in design and construction to the defective AOA sensor on the Model 747–400 airplane. This condition, if not corrected, could result in runway overrun, failure to clear terrain or obstacles after takeoff, or reduced controllability of the airplane.

Relevant Service Information

We reviewed the following service information:

- Boeing Special Attention Service Bulletin 727–34–0245, dated June 4, 2008 (for Model airplanes);

• Boeing Special Attention Service Bulletin 737–34–2102, dated June 5, 2008 (for Model 737–100, –200, and –200C series airplanes); and

• Boeing Special Attention Service Bulletin 747–34–2925, dated June 4, 2008 (for Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, 747SR, and 747SP series airplanes).

The service information describes procedures for performing a general visual inspection to determine if a certain AOA sensor with a paddle type vane is installed; and performing an operational test, and replacing the AOA sensor with a new sensor if necessary.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 1,013 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	3 work-hours × $85 per hour = $255	$0	$255	$258,315

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	Up to 2 work-hours × $85 per hour = $170.	Up to $36,552	Up to $36,722.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2012–1041; Directorate Identifier 2011–NM–272–AD.

(a) Comments Due Date

We must receive comments by November 26, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company series airplanes, certificated in any category, as specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) Model 727, 727C, –100, –100C, –200, and –200F series airplanes, identified in Boeing Special Attention Service Bulletin 727–34–0245, dated June 4, 2008.

(2) Model 737–100, –200, and –200C series airplanes, identified in Boeing Special Attention Service Bulletin 737–34–2102, dated June 5, 2008.

(3) Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, 747SR, and 747SP series airplanes, identified in Boeing Special Attention Service Bulletin 747–34–2925, dated June 4, 2008.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 3418, Stall Warning System.

(e) Unsafe Condition

This AD was prompted by a report of an erroneous activation of the control column shaker during takeoff. We are issuing this AD to prevent erroneous activation of the control column shaker during takeoff, which could result in runway overrun, failure to clear terrain or obstacles after takeoff, or reduced controllability of the airplane.

(f) Compliance

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

(g) Inspection

Within 36 months after the effective date of this AD: Do a general visual inspection of the left and right angle of attack (AOA) sensor as applicable, to determine if a certain AOA sensor with a paddle type vane is installed, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) Boeing Special Attention Service Bulletin 727–34–0245, dated June 4, 2008 (for Model 727 airplanes).

(2) Boeing Special Attention Service Bulletin 737–34–2102, dated June 5, 2008 (for Model 737–100, –200, and –200C series airplanes).

(3) Boeing Special Attention Service Bulletin 747–34–2925, dated June 4, 2008 (for Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, 747SR, and 747SP series airplanes).

(h) Operational Test and Replacement

If, during the inspection required by paragraph (g) of this AD, an AOA sensor with a paddle type vane is installed: Before further flight, do an operational test of the stall warning system, in accordance with Part 2 of the Accomplishment Instructions of the applicable service information specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) For group 2 airplanes identified in Boeing Special Attention Service Bulletin 747–34–2925, dated June 4, 2008: If you cannot get the values given in the table specified in Part 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–34–2925, dated June 4, 2008, before further flight, replace the AOA sensor, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–34–2925, dated June 4, 2008.

(2) For all airplanes, except those identified in paragraph (h)(1) of this AD: If the AOA sensor fails to activate the control column shaker in the operational test, replace the AOA sensor with a new AOA sensor, in accordance with Part 3 of the Accomplishment Instructions of the applicable service information specified in paragraph (h)(2)(i), (h)(2)(ii), or (h)(2)(iii) of this AD.

(i) Boeing Special Attention Service Bulletin 727–34–0245, dated June 4, 2008 (for Model 727 airplanes).

(ii) Boeing Special Attention Service Bulletin 737–34–2102, dated June 5, 2008 (for Model 737–100, –200, and –200C series airplanes).

(iii) Boeing Special Attention Service Bulletin 747–34–2925, dated June 4, 2008 (for Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, 747SR, and 747SP series airplanes).

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6467; fax: (425) 917–6590; email: *raymont.mei@faa.gov*.

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

Issued in Renton, Washington, on September 26, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24807 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0155; Directorate Identifier 2009–NM–141–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Model 737–200, –200C, –300, –400, and –500 series airplanes. That proposed AD would have superseded an existing AD that applies to certain The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes. The existing AD currently requires repetitive inspections to find fatigue cracking of certain upper and lower skin panels of the fuselage, and follow-on and corrective actions if necessary. The existing AD also includes a terminating action for the repetitive inspections of certain modified or repaired areas only. That NPRM proposed to add new inspections for cracking of the fuselage skin along certain chem-milled lines, and corrective actions if necessary. That NPRM also proposed to reduce certain thresholds and intervals required by the existing AD. This action revises that NPRM by reducing the proposed repetitive inspection intervals. We are proposing this supplemental NPRM to detect and correct fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane. Since these actions impose an additional burden over that proposed in the previous NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this supplemental NPRM by November 26, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707,

MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0155; Directorate Identifier 2009–NM–141–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to certain Model 737–200, –200C, –300, –400, and –500 series airplanes. That NPRM published in the **Federal Register** on March 8, 2011 (76 FR 12619). That NPRM proposed to supersede AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), to continue to require repetitive inspections to find fatigue cracking of certain upper and lower skin panels of the fuselage, and follow-on and corrective actions if necessary. That NPRM also included a terminating action for the repetitive inspections of certain modified or repaired areas only. That NPRM proposed to add new inspections for cracking of the fuselage skin along certain chem-milled lines, and corrective actions if necessary. That NPRM also proposed to reduce certain thresholds and intervals required by the existing AD. That NPRM resulted from reports indicating new findings of cracks were found along the edges of the chem-milled pockets in the upper skin at certain stringers.

Actions Since Previous NPRM Was Issued

Since we issued the previous NPRM (76 FR 12619, March 8, 2011), extensive continued evaluation of the chem-mill step cracking has been done, which resulted in a determination that the repetitive inspection intervals and the compliance time for the inspections of the crown area and other known areas of fuselage skin cracking must be reduced in order to adequately address the identified unsafe condition.

Comments

We gave the public the opportunity to comment on the previous NPRM (76 FR 12619, March 8, 2011). The following presents the comments received on the previous NPRM and the FAA's response to each comment.

Supportive Comments

The National Transportation Safety Board and Jonathan W. Ketron support the content of the previous NPRM (76 FR 12619, March 8, 2011).

Request To Supersede AD 2003–14–06, Amendment 39–13225 (68 FR 42956, July 21, 2003)

Alaska Airlines (ASA) asked that we change the previous NPRM (76 FR 12619, March 8, 2011) to also supersede AD 2003–14–06, Amendment 39–13225 (68 FR 42956, July 21, 2003). ASA explained that paragraph (g) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), allows accomplishing one-time internal inspections in accordance with paragraph (b) or paragraph (c) of AD 2003–14–06 in order to terminate the repetitive inspections required by paragraph (a) of AD 2004–18–06 (paragraph (g) of the previous NPRM). ASA added that the previous NPRM restates these required external inspections. ASA noted that AD 2003–14–06 was initially released to address inadequate phosphoric anodizing of the skin panels, leading to disbonding of internal doublers. ASA stated further that subsequent events showed that fatigue cracking of chem-milled skins cannot be solely attributed to improper anodizing or disbonded doublers. ASA added that the previous NPRM does not clearly address the requirements in AD 2003–14–06, which will remain in effect until after the final rule is released.

We do not agree to supersede AD 2003–14–06, Amendment 39–13255 (68 FR 42956, July 21, 2003). The one-time internal inspection in that AD is required for safety and is not related to the chem-milled step cracking addressed by this supplemental NPRM. In addition, the one-time inspection required by AD 2003–14–06 only terminates the external eddy current inspections required by paragraph (a) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), which is restated in paragraph (g) of this supplemental NPRM. All external detailed inspections are still required by paragraph (g) of this supplemental NPRM. We have made no change to this supplemental NPRM in this regard.

Request for Clarification of Language in Paragraphs (g) and (h) of the Previous NPRM (76 FR 12619, March 8, 2011)

Boeing requested that paragraphs (g) and (h) of the previous NPRM (76 FR 12619, March 8, 2011) be revised to better distinguish between existing and new requirements. Specifically, Boeing stated that the language used in paragraphs (g) and (h) of the previous NPRM could be interpreted to mean that using Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, is optional for accomplishing the required actions at the inspection thresholds and intervals required by AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004). Boeing requested clarification of the wording to indicate that the inspection, methods, thresholds, and ''repeats'' in accordance with Revision 3 of this service bulletin are now required.

We agree that clarification is necessary. Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, can be used for accomplishing the required actions in AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004). However, it is not required to use Revision 3 of this service bulletin to accomplish the requirements of the existing AD; rather, it is required to use that revision for the new actions

required by paragraphs (p), (q), and (s) of this supplemental NPRM.

Consequently, we have revised paragraphs (g) and (h) of this supplemental NPRM to remove the sentence beginning ''As of the effective date of this AD * * *'' to clarify that using Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, is not required for accomplishing the requirements of the existing AD.

Request To Change ''Internal'' Detailed Inspection to ''External'' Detailed Inspection

Boeing asked that we change the ''internal'' detailed inspection specified in paragraph (h)(1) of the previous NPRM (76 FR 12619, March 8, 2011) to an ''external'' detailed inspection. Boeing stated that this is a typographical error because it is a restatement of the requirements of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004).

We agree that the reference to an ''internal'' detailed inspection is a typographical error. We have changed paragraph (h)(1) of this supplemental NPRM to specify an ''external'' detailed inspection.

Request To Remove a Paragraph Reference

Boeing asked that we remove the reference to ''paragraph (m)'' in the third sentence of paragraph (g) of the previous NPRM (76 FR 12619, March 8, 2011). Boeing stated that paragraph (m) of the previous NPRM addresses disbond inspections, which should not terminate the detailed or eddy current inspection, as specified.

We find that clarification is necessary. Paragraph (m) of this supplemental NPRM states that accomplishing the optional terminating action ''before the effective date of this AD'' terminates the eddy current inspections required by paragraph (g) of this supplemental NPRM. In addition, paragraph (m) of this supplemental NPRM states that the detailed inspections specified in paragraph (g) of this supplemental NPRM are not terminated. Paragraph (m) of this supplemental NPRM states further that, ''as of the effective date of this AD,'' the optional terminating action does not terminate the repetitive eddy current inspections required by paragraph (g) of this supplemental NPRM.

We find it necessary to retain the reference to paragraph (m) of this supplemental NPRM in paragraph (g) to indicate that accomplishing the terminating action in paragraph (m) of this supplemental NPRM ''before the effective date of this AD'' terminates the eddy current inspections required by paragraph (g) of this supplemental NPRM. However, we have revised paragraph (m) of this supplemental NPRM to indicate that neither detailed nor eddy current inspections can be terminated by accomplishing the optional terminating action ''on or after the effective date of this AD.''

Request To Clarify Terminating Action

Boeing asked that the preventative modification language specified in paragraph (w) of the previous NPRM (76 FR 12619, March 8, 2011) be clarified to specify that doing the modification terminates only the repetitive inspections of the chem-milled steps common to stringer 12. Boeing stated that Note (c) of Table 2, paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, specifies that accomplishing the preventative modification only terminates the inspections at stringer 12. Boeing added that there have been post-modification cracks reported at the chem-milled steps common to stringer 10, even though the modification doubler covers the area. Boeing noted that the internal modification doubler does not span the stringer 10 or stringer 13 chem-milled steps by three rows of fasteners; therefore, inspections should continue at those locations even though the modification doubler is common to them.

We agree that clarification is necessary. Doing the preventive modification of the chem-milled areas in the skin at stringer 12, as specified in Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, ends the repetitive inspections for the modified areas common to stringer 12 only. Cracking of the chem-milled steps has been found at locations where doublers do not extend a minimum of three fastener rows beyond the chem-milled step. We have changed paragraph (w) of this supplemental NPRM accordingly.

Requests To Revise Certain Compliance Times

Boeing asked that the compliance time specified in paragraph (p)(1) of the previous NPRM (76 FR 12619, March 8, 2011) be changed. Boeing stated that it is unclear why airplanes that have accomplished paragraphs (i), (j)(1)(ii), (k), (l), or (m) of the previous NPRM (which are repairs and disbond inspections) must be inspected within 1,800 flight cycles after the effective date of the AD. Boeing added that airplanes identified in paragraph (p)(2) of the previous NPRM that have not accomplished those paragraphs are allowed to wait until 4,500 flight cycles after the last inspection, or 1,800 flight cycles after the effective date of the AD, whichever is later. Boeing questioned why the airplanes on which repairs have not been installed or a disbond inspection has not been accomplished have a different compliance time than airplanes that do have these repairs and inspections. Boeing noted that by using ''whichever occurs later'' in paragraph (p)(2) of the previous NPRM, an operator may accumulate up to 6,299 flight cycles (4,499 + 1,800) between inspections that were previously required at 4,500-flight-cycle intervals in accordance with AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004).

We agree that the compliance times required by paragraph (p) of this supplemental NPRM should be clarified. After further review of the new inspection requirements in paragraph (p) of this supplemental NPRM, we have determined that those inspections are not related to existing installed repairs or the disbond inspection. The compliance times should not be based on local repairs that may be installed on the airplanes. For areas that have repairs installed in accordance with paragraphs (i), (j)(1)(ii), (k), (l), and (m) of this AD, the inspection is already terminated for these areas only. Therefore, we have deleted paragraphs (p)(1) and (p)(2) of the previous NPRM (76 FR 12619, March 8, 2011), and included the following reduced compliance time in paragraph (p) of this supplemental NPRM: ''Within 4,500 flight cycles after doing the most recent inspection required by paragraph (g) of this AD, or within 1,800 flight cycles after the effective date of this AD, whichever is earlier.''

Boeing also asked that the compliance time specified in paragraph (s) of the previous NPRM (76 FR 12619, March 8, 2011) be changed. Boeing stated that the repetitive interval should be changed to 1,800 flight cycles for inspections in areas of known cracking in the lower lobe and Section 41, and when both eddy current and detailed inspections are required, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

Boeing also noted that for inspections in areas with no known cracking, the threshold should be at the latest of 35,000 total flight cycles, or at the earliest of 4,500 flight cycles from the release of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16,

2009, or 9,000 flight cycles after the previous inspection. Boeing stated that, based on additional crack growth data, the repetitive inspections in areas of known cracking should be reduced to 1,800 flight cycles. Boeing added that the inspection threshold should be at the latest of 35,000 total flight cycles, or at the earliest of 1,800 flight cycles from the release of that service bulletin or 4,500 flight cycles after the previous inspection. Boeing concluded that in areas of no known cracking, the inspections are in place to monitor for new cracking; therefore, the repetitive inspection intervals can be extended.

We agree that the compliance times should be changed based on the data provided by the manufacturer. We have moved the compliance times for the initial and repetitive inspections identified in paragraph (s) of the previous NPRM (76 FR 12619, March 8, 2011) to paragraphs (s)(1) and (s)(2) of this supplemental NPRM. We also reduced the repetitive inspection interval for known cracking in paragraph (s)(2) of this supplemental NPRM to 1,800 flight cycles.

Boeing also asked that the compliance times and repetitive intervals specified in paragraphs (t), (u)(1), and (u)(2) of the previous NPRM (76 FR 12619, March 8, 2011) be changed. Boeing requested that all compliance times (initial and repetitive) that specify 4,500 flight cycles be changed to 1,800 flight cycles. Boeing stated that the window belt skin area is equivalent to the crown skin area, and the initial threshold and repetitive interval should be the same as required for the crown area.

We agree that the compliance times should be changed based on the information provided. We have changed the compliance times and repetitive intervals in paragraphs (t), (u)(1), and (u)(2) of this supplemental NPRM accordingly.

Request To Provide Certain Clarifications

Southwest Airlines (SWA) asked that we change paragraph (h) of the previous NPRM (76 FR 12619, March 8, 2011) to provide clarification whether the inspections identified in Figures 26, 27, and 31 of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, are required. SWA asked whether an eddy current or external detailed inspection is necessary for certain locations if those inspection figures are required. SWA stated that paragraph (h) of the previous NPRM specifies an external detailed inspection of the lower lobe area and Section 41 of the fuselage, in accordance with Part 4 of the Accomplishment Instructions of that service bulletin. SWA added that Part 4 also specifies eddy current inspections every 1,800 flight cycles.

We agree that clarification is necessary. The subject inspections identified in Figures 26, 27, and 31 of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, are specified in this supplemental NPRM; however, the inspections in those figures are required by paragraph (s), not paragraph (h), of this supplemental NPRM. No change to either paragraph (h) or (s) of this supplemental NPRM is necessary.

SWA also asked how paragraphs (s) and (u) of the previous NPRM (76 FR 12619, March 8, 2011) are related, and if paragraph (u) of the previous NPRM applies to airplane groups 4, 11, and 16. SWA noted that the inspections identified in paragraph (s) of the previous NPRM are applicable to Groups 1 through 21 and are done in accordance with Part 4 of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; except as required by paragraph (u) of the previous NPRM. SWA also noted that the inspections identified in paragraph (u) of the previous NPRM are applicable to Groups 3, 5, 9, 10, 12, 14, 15, 17, 18, 19, 20, and 21, and are done in accordance with Part 2 of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. SWA stated that it is unsure how Part 2 and Part 4 are related. SWA added that Part 2 addresses Groups 4, 11, and 16; however, those groups are not specified in paragraph (u) of the previous NPRM.

We agree that clarification is necessary because the exception in paragraph (s) of the previous NPRM (76 FR 12619, March 8, 2011) is a typographical error and should have identified paragraph (x) instead of paragraph (u) of the previous NPRM. We have changed paragraph (s) of this supplemental NPRM accordingly, which also addresses the commenter's concern about Groups 4, 11, and 16.

Request To Exclude Certain Inspection Areas

SWA asked that, to avoid mandating additional inspections in the previous NPRM (76 FR 12619, March 8, 2011), we exclude the inspection areas identified in AD 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009). SWA stated that the inspection threshold and repetitive intervals required by AD 2009–21–01 are more restrictive for certain areas of the lower lobe skins than those in the previous NPRM.

We agree that the inspection threshold and repetitive intervals required by AD 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009), are more restrictive for certain areas. Therefore, we have added a new paragraph (y)(5) to this supplemental NPRM (and reidentified subsequent paragraphs) to specify that inspections and corrective actions required by paragraph (g) of AD 2009–21–01 meet the corresponding provisions of paragraph (s) of this supplemental NPRM.

Request To Require Eddy Current Inspections Only

SWA asked that only nondestructive inspections (NDI) be used in areas where the previous NPRM (76 FR 12619, March 8, 2011) requires both external detailed and eddy current inspections every 1,800 flight cycles. SWA stated that paragraph (f) of AD 2008–19–03, Amendment 39–15670 (73 FR 56958, October 1, 2008), requires repetitive inspections along the chem-milled steps at stringers S–1 and S–2R, between STA 400 and STA 460. SWA added that for line numbers 1001 through 2552, the operator has the option of accomplishing repetitive external detailed inspections every 2,300 flight cycles, or NDI every 4,500 flight cycles. SWA noted that the previous NPRM reduces the repetitive inspection interval specified in Tables 1 through 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, from 4,500 flight cycles to 1,800 flight cycles. SWA made its request due to this reduced inspection interval.

We do not agree that only NDI can be used where both external detailed and eddy current inspections are required. The overall safety concern related to Model 737 fuselage skin panels addressed in this supplemental NPRM is mitigated by using detailed inspections in conjunction with eddy current inspections. We have made no change to the supplemental NPRM in this regard.

Request To Use Ultrasonic Phased Array (UTPA) Inspection

SWA asked that it be allowed to use a UTPA inspection to inspect areas where the previous NPRM (76 FR 12619, March 8, 2011) requires external NDI methods. SWA stated Boeing confirmed that it is satisfactory to inspect areas covered by the dorsal fin by internally using the UTPA inspection in lieu of the NDI methods, using information in the nondestructive test manual, in lieu of the external NDI methods.

We agree that a UTPA inspection might be able to be used instead of the external NDI method. However, we do not agree to include the UTPA inspection in this supplemental NPRM because we cannot include individual operators' methods of compliance. Under the provisions of paragraph (y) of this supplemental NPRM, we will consider requests for approval of a change to the inspection type if sufficient data are submitted to substantiate that the inspection would provide an acceptable level of safety. We have made no change to the supplemental NPRM in this regard.

Request To Allow a General Visual Inspection (GVI) Instead of Detailed Inspection

SWA and British Airways asked that we allow a GVI in lieu of the detailed inspection specified in paragraphs (p) and (q) of the previous NPRM (76 FR 12619, March 8, 2011). SWA stated that both paragraphs specify doing external detailed and eddy current inspections of the crown area and other known areas of fuselage skin cracking in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. SWA noted that Part 1 provides doing a GVI with a reduced inspection interval of 1,000 flight cycles in non-lap splice areas as an alternative to the detailed inspection. SWA and British Airways stated that the previous NPRM does not identify the reference in Note (b) of Table 1 of paragraph 1.E., ''Compliance,'' of that service bulletin, which allows performing a GVI at a reduced inspection interval in lieu of the detailed inspection in areas away from the lapjoints. SWA also asked if the GVI applies to Figures 32 through 37 of this service bulletin.

We agree with the commenters' requests because we have determined that doing the GVI at a reduced inspection interval provides an acceptable level of safety. In addition, the GVI does apply to Figures 32 through 37 of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, because the figures are part of the Accomplishment Instructions, which is the part of the service bulletin referred to in the requirements. We have revised paragraphs (p), (q), and (s) of this supplemental NPRM to allow this option.

Request To Allow Use of Corrosion Inhibiting Compound

US Airways asked that we allow the use of an alternative corrosion inhibiting compound (CIC) during repairs. US Airways stated that paragraphs (u) and (w) of the previous NPRM (76 FR 12619, March 8, 2011) refer to Parts 7 and 8 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; Parts 7 and 8 refer to Figures 10 and 24, respectively. US Airways added that the figures specify applying CIC BMS 3–23, Type 2, when completing repairs. US Airways noted that Boeing has approved newer CIC BMS 3–35, which is compatible with CIC BMS 3–23, and is identified in the applicable corrosion prevention manual. US Airways added that Boeing does not plan to add CIC BMS 3–35 to its FAA-approved repair documents. US Airways stated that adding this to the previous NPRM would avoid requests for approval of AMOCs.

We agree that CIC BMS 3–35 can be used as an alternative to CIC BMS 3–23. CIC BMS 3–35 has been qualified and approved as an AMOC for other repair situations that specify CIC BMS 3–23. We have added a new statement to paragraphs (u) and (w) of this supplemental NPRM to include the option of using CIC BMS 3–35 as an equivalent CIC.

Changes to Supplemental NPRM

The exception in paragraph (o) of this supplemental NPRM was included in the requirements of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004); however, it was inadvertently removed from the proposed requirements in the previous NPRM (76 FR 12619, March 8, 2011). We have included the exception in paragraphs (g) and (h) of this supplemental NPRM.

We have removed the reference to the Boeing 737 Non-Destructive Test Manual specified in paragraph (o) of this supplemental NPRM; the inspection identified in that paragraph may be done using Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

We have removed the definition of a ''detailed inspection'' in Note 1 of the previous NPRM (76 FR 12619, March 8, 2011) from this supplemental NPRM. That definition is provided in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

Due to a typographical error in paragraph (w) of the previous NPRM (76 FR 12619, March 8, 2011), we have changed the reference in paragraph (w) of this supplemental NPRM to paragraph (u), instead of paragraph (p) or (q), respectively.

We have revised the optional repair method specified in paragraph (k) of this supplemental NPRM to remove the reference to repairing any cracking per the applicable structural repair manual (SRM) identified in Table 1 of the previous NPRM (76 FR 12619, March 8, 2011). Instead, we have added a statement to paragraph (k) of this supplemental NPRM to specify that guidance on repairing any cracking can be found in the applicable SRM identified in paragraphs (k)(1) through (k)(4) of this supplemental NPRM.

FAA's Determination

We are proposing this supplemental NPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the previous NPRM (76 FR 12619, March 8, 2011). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Proposed Requirements of the Supplemental NPRM

This supplemental NPRM would require the actions proposed in the previous NPRM (76 FR 12619, March 8, 2011). However, this supplemental NPRM reduces the proposed repetitive inspection intervals and the compliance time for the inspections of the crown area and other known areas of fuselage skin cracking in the previous NPRM (76 FR 12619, March 8, 2011).

Costs of Compliance

There are about 903 airplanes of U.S. registry affected by AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004).

The inspections of the crown area that are required by AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), take about 94 work hours per airplane to accomplish, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required inspections is $7,990 per airplane, per inspection cycle.

The inspections of the lower lobe area that are required by AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), take about 96 work hours per airplane to accomplish, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the currently required inspections is $8,160 per airplane, per inspection cycle.

Should an operator elect to install the preventive modification specified in AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), it will take about 108 work hours per airplane to accomplish, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the modification is $9,180 per airplane.

The new proposed inspections would affect about 701 airplanes of U.S. registry.

The new proposed inspections would take about 27 work hours per airplane, at an average labor rate of $85 per work hour. Based on these figures, the estimated cost of the new actions specified in this proposed AD for U.S. operators is $1,608,795, or $2,295 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), and adding the following new AD:

The Boeing Company: Docket No. FAA–2011–0155; Directorate Identifier 2009–NM–141–AD.

(a) Comments Due Date

We must receive comments by November 26, 2012.

(b) Affected ADs

(1) This AD supersedes AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004).

(2) AD 2002–07–08, Amendment 39–12702 (67 FR 17917, April 12, 2002); and AD 2003–14–06, Amendment 39–13225 (68 FR 42956, July 21, 2003); and AD 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009); affect this AD.

(c) Applicability

This AD applies to The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by new findings of vertical cracks along chem-milled steps adjacent to the butt joints. We are issuing this AD to detect and correct fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane.

(f) Compliance

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

(g) Retained External Detailed and Eddy Current Inspections

This paragraph restates the requirements of paragraph (a) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004) with revised service information. For Groups 1 through 5 airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001: Before the accumulation of 35,000 total flight cycles, or within 4,500 flight cycles after October 13, 2004 (the effective date of AD 2004–18–06), whichever is later, do external detailed and eddy current inspections of the crown area and other known areas of fuselage skin cracking, in accordance with Part 1 and Figure 1 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; except as provided by paragraph (o) of this AD. Repeat the external detailed and eddy current inspections at intervals not to exceed 4,500 flight cycles until paragraph (i), (j)(1)(ii), (k), (l), or (m) of this AD has been done, as applicable. Although paragraph 1.D. of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001, references a reporting requirement, such reporting is not required by this AD. Accomplishing the actions required by paragraph (p) or (q) of this AD ends the repetitive requirements in this paragraph.

(h) Retained External Detailed Inspection With Reduced Compliance Time

This paragraph restates the requirements of paragraph (b) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004) with revised service information. For all airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001, do an external detailed inspection of the lower lobe area and section 41 of the fuselage for cracking, in accordance with Part 2 and Figure 2 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; except as provided by paragraph (o) of this AD. At the earlier of the times specified in paragraphs (h)(1) and (h)(2) of this AD, do the inspection specified in this paragraph, and repeat the inspection thereafter at intervals not to exceed 4,500 flight cycles until paragraph (j)(2) or paragraph (k), as applicable, of this AD has been done. Accomplishing the actions required by paragraph (s) of this AD ends the requirements in this paragraph.

(1) Within 9,000 flight cycles after doing the most recent external detailed inspection.

(2) Within 4,500 flight cycles after October 13, 2004 (the effective date of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004)), or before the accumulation of 40,000 total flight cycles, whichever occurs later.

(i) Retained Preventive Modification at Stringer 12

This paragraph restates the requirements of paragraph (c) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004) with revised service information. For Groups 3 and 5 airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001: If no cracking is found during any inspection required by paragraph (g) of this AD, doing the preventive modification of the chem-milled pockets in the upper skin as specified in Part 5 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or as specified in Part 7 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, except as required by paragraph (x) of this AD; ends the repetitive external detailed and eddy current inspections required by paragraph (g) of this AD for the modified area only. As of the effective date of this AD, use only Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

(j) Retained Corrective Actions

This paragraph restates the requirements of paragraph (d) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), with revised service information. If any cracking is found during any inspection required by paragraph (g), (h), (p), (q), or (s) of this AD, before further flight, do the actions specified in paragraphs (j)(1) and (j)(2) of this AD, as applicable, in accordance with the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or in accordance with the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. As of the effective date of this AD, use only Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. Where Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or Revision 3, dated July 16, 2009; specify to contact Boeing for repair instructions, before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) or any other person authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(1) Except as provided by paragraph (k) of this AD, for cracking of the crown area, do the repair specified in either paragraph (j)(1)(i) or (j)(1)(ii) of this AD.

(i) Do a time-limited repair in accordance with Part 4 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or in accordance with Part 6 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, except as required by paragraph (x) of this AD, then do the actions required by paragraph (l) of this AD at the times specified in that paragraph.

(ii) Do a permanent repair in accordance with Part 3 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or in accordance with Part 5 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. Installation of a permanent repair ends the repetitive inspections required by paragraph (g) of this AD for the repaired area only. Installation of the lap joint repair specified in paragraph (g) of AD 2002–07–08, Amendment 39–12702 (67 FR 17917, April 12, 2002), is considered acceptable for compliance with the corresponding permanent repair specified in this paragraph for the repaired areas only.

(2) Except as provided by paragraph (k) of this AD, for cracking of the lower lobe area and Section 41, repair in accordance with Part 2 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or in accordance with paragraph (j)(2)(i) or (j)(2)(ii) of this AD. Accomplishment of this repair ends the repetitive inspections required by paragraph (h) of this AD for the repaired area only. As of the effective date of this, do the repair specified in paragraph (j)(2)(i) or (j)(2)(ii) of this AD.

(i) Do a time-limited repair in accordance with Part 6 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, except as required by paragraph (x) of this AD, then do the actions required by paragraph (l) of this AD at the times specified in that paragraph.

(ii) Do a permanent repair in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

(k) Retained Optional Repair Method

This paragraph restates the requirements of paragraph (e) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004) with revised service information. For cracking in any area specified in paragraphs (j)(1) and (j)(2) of this AD within the limitations of the applicable structural repair manual (SRM) specified in paragraphs (k)(1) through (k)(4) of this AD, repair any cracks, in accordance with a method approved by the Manager, Seattle ACO; or in accordance with data meeting the type certification basis of the airplane if it is approved by the Boeing Commercial Airplanes ODA or any other person authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD. Accomplishment of the applicable repair terminates the repetitive inspections required by paragraphs (g) and (h) of this AD for the repaired area only. Guidance on repairing the cracking can be found in the applicable SRM specified in paragraphs (k)(1) through (k)(4) of this AD.

(1) For Model 737–100, –200 series airplanes, Subject 53–30–3, Figure 48, of Boeing 737–100/–200 SRM D6–15565, Revision 102, dated September 10, 2010.

(2) For Model 737–300 series airplanes, Subject 53–00–01, Figure 229, of Boeing 737–300 SRM D6–37635, Revision 92, dated November 10, 2010.

(3) For Model 737–400 series airplanes, Subject 53–00–01, Figure 231, of Boeing 737–400 SRM, D6–38246, Revision 75, dated November 10, 2010.

(4) For Model 737–500 series airplanes, Subject 53–00–01, Figure 229, of Boeing 737–500 SRM, D6–38441, Revision 70, dated November 10, 2010.

(l) Retained Follow-on and Corrective Actions

This paragraph restates the requirements of paragraph (f) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004) with revised service information. If a time-limited repair is done, as specified in paragraph (j)(1)(i) or (j)(2)(i) of this AD: Do the actions specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD, at the times specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD, in accordance with the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or in accordance with the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

(1) Within 3,000 flight cycles after doing the repair: Do the actions specified in paragraph (l)(1)(i) or (l)(1)(ii) of this AD. Then repeat the applicable inspection specified in paragraph (l)(1)(i) or (l)(1)(ii) of this AD at intervals not to exceed 3,000 flight cycles until permanent rivets are installed in the repaired area, which ends the repetitive inspections for this paragraph. As of the effective date of this AD, do only the inspections specified in paragraph (l)(1)(ii) of this AD.

(i) For repairs done before the effective date of this AD: Do a detailed inspection of the repaired area for loose fasteners in accordance with Part 4 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001, or do the actions specified in paragraph (l)(1)(ii) of this AD. If any loose fastener is found, before further flight, replace with a new fastener, in accordance with the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001.

(ii) For repairs done after the effective date of this AD: Do a detailed inspection of the repaired area for loose, damaged, and missing fasteners, in accordance with Part 6 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. If any loose, missing, or damaged fastener is found, before further flight, replace with a new fastener, in accordance with Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

(2) At the applicable time specified in paragraph (l)(2)(i) and (l)(2)(ii) of this AD: Do inspections of the repaired area for cracking in accordance with Part 4 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; or in accordance with Part 6 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July

16, 2009. If any cracking is found, before further flight, repair in accordance with a method approved by the Manager, Seattle ACO, or in accordance with data meeting the type certification basis of the airplane if it is approved by the Boeing Commercial Airplanes ODA or any other person authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(i) For repairs done before the effective date of this AD: Within 4,000 flight cycles after doing the repair, do the inspections.

(ii) For repairs done on or after the effective date of this AD: Within 3,000 flight cycles after doing the repair, do the inspections.

(3) At the earlier of the times specified in paragraphs (l)(3)(i) and (l)(3)(ii) of this AD: Make the repair permanent in accordance with Part 4 and Figure 20 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001, or do the permanent repair, in accordance with Part 5 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, which ends the repetitive inspections for the repaired area only. As of the effective date of this AD, only Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, can be used to make the repair permanent.

(i) Within 10,000 flight cycles after doing the repair in accordance with Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001.

(ii) At the later of the times specified in paragraphs (l)(3)(ii)(A) and (l)(3)(ii)(B) of this AD.

(A) Within 6,000 flight cycles after doing the repair.

(B) Within 1,000 flight cycles after the effective date of this AD.

(m) Retained Optional Terminating Action for Repetitive Eddy Current Inspections

This paragraph restates the requirements of paragraph (g) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004) with revised service information. Accomplishment of paragraph (b) or (c), as applicable, of AD 2003–14–06, Amendment 39–13225 (68 FR 42956, July 21, 2003), before the effective date of this AD ends the repetitive eddy current inspections required by paragraph (g) of this AD for that skin panel only; however, the repetitive external detailed inspections required by paragraph (g) of this AD are still required for all areas. Accomplishing paragraph (b) or (c), as applicable, of AD 2003–14–06, on or after the effective date of this AD, does not end either the repetitive detailed or eddy current inspections required by paragraph (g) of this AD.

(n) Retained Credit for Previous Actions

This paragraph restates the requirements of paragraph (h) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004). Inspections, repairs, and preventive modifications done before October 13, 2004 (the effective date of AD 2004–18–06), in accordance with Boeing Alert Service Bulletin 737–53A1210, dated December 14, 2000, are acceptable for compliance with the corresponding actions required by paragraphs (g), (h), (i), (j), (k), and (l) of this AD.

(o) Retained Exception to Service Bulletin Procedures

This paragraph restates the requirements of paragraph (i) of AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004) with revised service information. For airplanes subject to the requirements of paragraphs (g) and (h) of this AD: Inspections are not required in areas that are spanned by an FAA-approved repair that has a minimum of 3 rows of fasteners above and below the chem-milled step. If an external doubler covers the chem-milled step, but does not span it by a minimum of 3 rows of fasteners above and below, in lieu of requesting approval for an alternative method of compliance (AMOC), one option to comply with the inspection requirement of paragraphs (g) and (h) of this AD is to inspect all chem-milled steps covered by the repair in accordance with the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009.

(p) New Requirements of This AD: Repetitive External Detailed and Eddy Current Inspections of the Crown Area and Other Known Areas of Fuselage Skin Cracking, and Corrective Actions

For Groups 1 through 5 and Groups 9 through 21 airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, on which the inspections required by paragraph (g) of this AD have been done before the effective date of this AD: Within 4,500 flight cycles after doing the most recent inspection required by paragraph (g) of this AD, or within 1,800 flight cycles after the effective date of this AD, whichever is earlier; do external detailed and eddy current inspections of the crown area and other known areas of the fuselage skin cracking, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; except as provided by paragraph (o) of this AD. Repeat the external detailed and eddy current inspections thereafter at intervals not to exceed 1,800 flight cycles. Accomplishing the inspections required by this paragraph ends the repetitive inspections required by paragraph (g) of this AD. Before further flight, do all applicable corrective actions as specified in paragraph (j) of this AD. For the locations specified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; in lieu of doing detailed inspections, operators may do general visual inspections, provided that the general visual inspections are done at intervals not to exceed 1,000 flight cycles.

(q) New Requirements of This AD: Repetitive External Detailed and Eddy Current Inspections of the Crown Area and Other Known Areas of Fuselage Skin Cracking, and Corrective Actions

For Groups 1 through 5 and 9 through 21 airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; on which the inspections required by paragraph (g) of this AD have not been done before the effective date of this AD: Before the accumulation of 28,000 total flight cycles, or within 1,800 flight cycles after the effective date of this AD, whichever is later, do external detailed and eddy current inspections of the crown area and other known areas of fuselage skin cracking, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, except as provided by paragraph (o) of this AD. Repeat the external detailed and eddy current inspections thereafter at intervals not to exceed 1,800 flight cycles. Accomplishing the inspections required by this paragraph ends the repetitive inspections required by paragraph (g) of this AD. Before further flight, do all applicable corrective actions as specified in paragraph (j) of this AD. For the locations specified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; in lieu of doing detailed inspections, operators may do general visual inspections, provided that the general visual inspections are done at intervals not to exceed 1,000 flight cycles.

(r) New Requirements of This AD: Repetitive External Detailed and Eddy Current Inspections of the Fuselage Skin Along the Chem-Milled Steps of the Butt Joints, and Corrective Actions

For Group 1 through 5, and 9 through 21 airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009: At the later of the times specified in paragraphs (r)(1) and (r)(2) of this AD, do external detailed and eddy current inspections for vertical cracks in the fuselage skin along the chem-milled steps of the butt joints, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. Repeat the inspections thereafter at intervals not to exceed 1,800 flight cycles or 1,800 flight hours, whichever occurs first. If any cracking is found, before further flight, repair in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. Doing the repair terminates the repetitive inspections specified in this paragraph for the repaired area only.

(1) Before the accumulation of 55,000 total flight cycles or 55,000 total flight hours, whichever occurs first.

(2) Within 1,800 flight cycles or 1,800 flight hours after the effective date of this AD, whichever occurs first.

(s) New Requirements of This AD: Repetitive Detailed and Eddy Current Inspections Along the Chem-Milled Lines of the Fuselage Skin of the Lower Lobe Area and Section 41, and Corrective Actions

For Groups 1 through 21 airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009: At the applicable time specified in paragraph (s)(1) or (s)(2) of this AD, do external detailed and eddy current inspections, as applicable, for horizontal

cracks along the chem-milled lines of the fuselage skin of the lower lobe area and section 41, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; except as required by paragraph (x) of this AD. Repeat the inspections thereafter at intervals not to exceed 1,800 flight cycles. Accomplishing the inspections required by this paragraph ends the repetitive inspections required by paragraph (h) of this AD. Before further flight, do all applicable corrective actions as specified in paragraph (j) of this AD. For the locations specified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009; in lieu of doing detailed inspections, operators may do general visual inspections, provided that the general visual inspections are done at intervals not to exceed 1,000 flight cycles.

(1) In areas of no known cracking where only a detailed inspection is accomplished: Do the inspection at the later of the times specified in paragraphs (s)(1)(i) and (s)(1)(ii) of this AD.

(i) Before the accumulation of 35,000 total flight cycles.

(ii) Within 9,000 flight cycles after the most recent inspection required by paragraph (h) of this AD, or within 1,800 flight cycles after the effective date of this AD, whichever is earlier.

(2) In areas of known cracking where both a detailed and eddy current inspection is accomplished: Do the inspection at the latest of the times specified in paragraphs (s)(2)(i) and (s)(2)(ii) of this AD.

(i) Before the accumulation of 35,000 total flight cycles.

(ii) Within 4,500 flight cycles after the most recent inspection required by paragraph (h) of this AD, or within 1,800 flight cycles after the effective date of this AD, whichever is earlier.

(t) New Requirements of This AD: Repetitive External Detailed and Eddy Current Inspections Along the Chem-Milled Lines of the Fuselage Skin of the Window Belt Area, and Corrective Actions

For Groups 4, 11, and 16 airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009: Before the accumulation of 25,000 total flight cycles or within 1,800 flight cycles after the effective date of this AD, whichever is later, do external detailed and eddy current inspections for horizontal cracks along the chem-milled lines of the fuselage skin of the fuselage window belt area, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. Repeat the inspections thereafter at intervals not to exceed 1,800 flight cycles. If any cracking is found, before further flight, repair using a method approved in accordance with paragraph (y) of this AD. Doing the repair terminates the repetitive inspections specified in this paragraph for the repaired area only.

(u) New Requirements of This AD: Repetitive External Detailed and Eddy Current Inspections Along the Chem-Milled Lines of the Fuselage Skin of the Fuselage Window Belt Area, and Corrective Actions

For Groups 3, 5, 9, 10, 12, 14, 15, 17, 18, 19, 20, and 21 airplanes identified in Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009: Do the actions specified in paragraph (u)(1) or (u)(2) of this AD, as applicable. Part 7 (Figure 10) of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, specifies applying corrosion inhibiting compound (CIC) BMS 3–23 to the surfaces of the repaired area. As an option to using CIC BMS 3–23, operators may use CIC BMS 3–35, which is equivalent to CIC BMS 3–23.

(1) For airplanes on which the inspections required by paragraph (g) of this AD have been done before the effective date of this AD: Within 4,500 flight cycles after doing the most recent inspection required by paragraph (g) of this AD, or within 1,800 flight cycles after the effective date of this AD, whichever is earlier, do external detailed and eddy current inspections for horizontal cracks along the chem-milled lines of the fuselage skin of the fuselage window belt area, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. Repeat the inspections thereafter at intervals not to exceed 1,800 flight cycles. If any cracking is found, before further flight, repair in accordance with Part 8 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, except as required by paragraph (x) of this AD.

(2) For airplanes on which the inspections required by paragraph (g) of this AD have not been done before the effective date of this AD: Before the accumulation of 25,000 total flight cycles or within 1,800 flight cycles after the effective date of this AD, whichever is later, do external detailed and eddy current inspections for horizontal cracks along the chem-milled lines of the fuselage skin of the fuselage window belt area, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009. Repeat the inspections thereafter at intervals not to exceed 1,800 flight cycles. If any cracking is found, before further flight, repair in accordance with Part 8 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, except as required by paragraph (x) of this AD.

(v) New Optional Repair

For airplanes on which cracking is found during any inspection required by paragraph (p), (q), (r), or (s) of this AD, as applicable, doing the repair of the chem-milled area in the skin, as specified in Part 5 or Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, ends the repetitive external detailed and eddy current inspections required by paragraph (p), (q), (r), or (s) of this AD, as applicable, for the repaired area only.

NOTE 1 TO PARAGRAPH (V) OF THIS AD: Part 8 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, specifies a post-repair inspection of the skin chem-milled crack repair at stringer 12; that inspection is not required by this AD. The damage tolerance inspections specified in Table 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, may be used in support of compliance with section 121.1109(c)(2) or 129.109(c)(2) of the Code of Federal Regulations (14 CFR 121.1109(c)(2) or 14 CFR 129.109(c)(2)).

(w) New Optional Preventive Modification at Stringer 12

For airplanes on which no cracking is found during any inspection required by paragraph (u) of this AD, doing the preventive modification of the chem-milled areas in the skin at stringer 12, as specified in Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, except as required by paragraph (x) of this AD, ends the repetitive external detailed and eddy current inspections required by paragraph (u) of this AD, for the modified areas common to stringer 12 only. Part 7 (Figure 10) of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, specifies applying CIC BMS 3–23 to the surfaces of the repaired area. As an option to using CIC BMS 3–23, operators may use CIC BMS 3–35, which is equivalent to CIC BMS 3–23.

(x) Exception to Service Information

Where Boeing Alert Service Bulletin 737–53A1210, Revision 3, dated July 16, 2009, specifies to contact Boeing for repair instructions, before further flight, repair using a method approved in accordance with paragraph (y) of this AD.

(y) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously in accordance with AD 2004–18–06, Amendment 39–13784 (69 FR 54206, September 8, 2004), are approved as AMOCs for the corresponding provisions of this AD.

(5) Inspections and corrective actions required by paragraph (g) of AD 2009–21–01, Amendment 39–16038 (74 FR 52395, October 13, 2009), are approved as AMOCs for the corresponding provisions of paragraph (s) of this AD; but only for the areas of the lower lobe skin identified in AD 2009–21–01.

(z) Related Information

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

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

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24805 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2008–0020 and FEMA–2010–0003; Internal Agency Docket Nos. FEMA–B–1069 and B–1122]

Proposed Flood Elevation Determinations for Fairbanks North Star Borough, Alaska, and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Fairbanks North Star Borough, Alaska, and Incorporated Areas.

DATES: This withdrawal is effective on October 10, 2012.

ADDRESSES: You may submit comments, identified by Docket Nos. FEMA–B–1069 and B–1122, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On September 15, 2009 and May 25, 2010, FEMA published a proposed rulemaking at 74 FR 47169 and 75 FR 29296, proposing flood elevation determinations along one or more flooding sources in Fairbanks North Star Borough, Alaska. FEMA is withdrawing the proposed rulemaking and intends to publish a Notice of Proposed Flood Hazard Determinations in the **Federal Register** and a notice in the affected community's local newspaper following issuance of a revised preliminary Flood Insurance Rate Map and Flood Insurance Study report.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: September 14, 2012.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–24855 Filed 10–9–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 1206013326–2490–01]

RIN 0648–XA984

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List Nassau Grouper as Threatened or Endangered Under the Endangered Species Act

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

ACTION: Notice of 90-day petition finding, request for information.

SUMMARY: We (NMFS) announce a 90-day finding on a petition to list Nassau grouper (*Epinephelus striatus*) as threatened or endangered under the Endangered Species Act (ESA). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Accordingly, we will conduct a review of the status of this species to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we solicit information pertaining to this species from any interested party.

DATES: Information and comments on the subject action must be received by December 10, 2012.

ADDRESSES: You may submit information, identified by the code 0648–XA984, addressed to: Jason Rueter, Fisheries Biologist, by any of the following methods:

- *Electronic Submissions:* Submit all electronic information via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Facsimile (fax):* 727–824–5309.
- *Mail:* NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Hand delivery:* You may hand deliver written information to our office during normal business hours at the street address given above.

Instructions: All information received is a part of the public record and may be posted to *http://www.regulations.gov* without change. All personally identifiable information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. We will accept anonymous submissions. Attachments to electronic comments will be accepted in Microsoft Word, Excel, Corel WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Jason Rueter, NMFS Southeast Region, 727–824–5350; or Lisa Manning, NMFS Office of Protected Resources, 301–427–8466.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2010, we received a petition from the WildEarth Guardians to list goliath grouper (*Epinephelus itajara*), Nassau grouper (*Epinephelus striatus*), and speckled hind (*Epinephelus drummondhayi*) as threatened or endangered under the

ESA. Copies of this petition are available from us (see **ADDRESSES,** above). Due to the scope of the WildEarth Guardians' petition, as well as the breadth and extent of the required evaluation and response, we decided to provide species-specific findings on this petition. This finding addresses WildEarth Guardians' petition to list Nassau grouper. Negative findings for goliath grouper and speckled hind were made on June 1, 2011 (76 FR 31592), and May 1, 2012 (77 FR 25687), respectively.

ESA Statutory and Regulatory Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we are to conclude the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review of the available information, as compared to the narrow scope of review at the 90-day stage, a ''may be warranted'' finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a ''species,'' which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NOAA-U.S. Fish and Wildlife Service (USFWS) policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (''DPS Policy''; 61 FR 4722; February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively; 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered because of any one or a combination of the following section 4(a)(1) factors: the present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define ''substantial information'' in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition, the Secretary must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

Court decisions clarify the appropriate scope and limitations of the Services' review of petitions at the 90-day finding stage, in making a determination whether a petitioned action ''may be'' warranted. As a general matter, these decisions hold that a petition need not establish a ''strong likelihood'' or a ''high probability'' that a species is either threatened or endangered to support a positive 90-day finding.

We evaluate the petitioner's request based upon the information in the petition including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude it supports the petitioner's assertions. In other words, conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a ''species'' eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted

on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Nassau Grouper Species Description

The Nassau grouper is a moderately large sea bass (family Serranidae) distributed in the Western North Atlantic from Bermuda, Florida, Bahamas, Yucatan Peninsula, and throughout the Caribbean to southern Brazil. It is not known from the Gulf of Mexico except at the Campeche Bank off the coast of the Yucatan, the Flower Gardens Bank off Texas, and off the Dry Tortugas and Key West, Florida (Beebe and Tee-van, 1933; Randall, 1965; Heemstra and Randall, 1993; Foley *et al.,* 2007). Nassau grouper are generally found near high-relief coral reefs and rocky bottoms from inshore to a maximum depth of approximately 330 feet (100 m). There is no evidence of distinct subpopulations of Nassau grouper based on genetic analysis (mtDNA and microsatellites) of fish sampled from a number of sites in Florida, Cuba, Belize and the Bahamas (Sedberry *et al.,* 1996). Therefore, Nassau grouper are considered as one, connected population.

Nassau grouper reach a maximum size of approximately 39 inches (100 cm) and 55 pounds (25 kg). They are late-maturing (between 4–7 years) and fairly long-lived (up to 29 years). Nassau grouper were originally considered to be amonandric protogynous hermaphrodites, meaning all males are produced by the sex change of adult females. Evidence of a change from adult female to adult male, however, is weak. Instead, available evidence indicates that the Nassau grouper is primarily gonochoristic (separate sexes) (Sadovy and Eklund, 1999). Nassau grouper are known to assemble in very large numbers, from a few dozen to historically over 100,000 individuals, at transient, site-specific areas each year to spawn, presumably cued by temperature and moon phase. Spawning is not known to occur outside of these aggregations. Aside from spawning, Nassau grouper are solitary fish.

Analysis of the Petition

We have determined, based on the information provided in the petition and readily available in our files, that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted. The petition contains a justification for the recommended measure, species taxonomic description, geographic distribution, preferred habitat characteristics, population status and trends, and threats contributing to the species' decline, and it is accompanied by appropriate supporting documentation. Below is a synopsis of our analysis of the information provided in the petition and readily available in our files.

The petition cites classifications made by NMFS, the International Union for Conservation of Nature (IUCN), and NatureServe to support its assertion that Nassau grouper is imperiled. The petitioner suggests historic and continued overfishing is the primary threat to Nassau grouper. Because commercial and recreational landings in the U.S. from 1986–1991 decreased in both pounds landed and average size, the Caribbean (1990), South Atlantic (1991), and Gulf of Mexico (1996) Fishery Management Councils, and the State of Florida (1993) all have prohibited the take and possession of Nassau grouper (NMFS, 2010). The IUCN estimates the population of Nassau grouper has declined by 60 percent over the last three generations (Cornish and Eklund, 2003). The petition also cites the IUCN's conclusion that Nassau grouper is suffering from a ''high rate of decline in population size'' (Cornish and Eklund, 2003). This decline was estimated by weighing estimates of the original Nassau population to coral reef area (rather than population size) to give an overall decline figure. This method assumes that pristine densities of Nassau grouper were the same at all localities. This is probably not likely to have been the case but it enables a single figure to be derived (60 percent decline of Nassau grouper), which is likely more representative of the global situation than the alternative, which would be to say that the decline lies between 55 and 99.5% (the lowest and highest documented decline rates) (Cornish and Eklund, 2003). Additionally, NatureServe (2009) estimates the global abundance of Nassau grouper to be as low as 10,000 worldwide, with numbers still declining. This estimate by NatureServe is based on the occurrence of at least 28 extant spawning aggregations in the western Atlantic, most of which are assumed to each represent hundreds to thousands of individuals (Smith, 1972; Aguilar-Perera, 1990). Conversely, the declining trend is based on spawning aggregations that are absent, disappearing, or becoming increasingly rare throughout the range with several spawning aggregations having vanished completely (Sobel, 1996).

Heavy fishing of spawning aggregations leading to recruitment overfishing is thought to be a major reason for the ''catastrophic'' decline in populations of Nassau grouper (Colin, 1996; Beets and Hixon, 1994). The spawning aggregations are particularly vulnerable to fishing pressure as they are spatially and temporally predictable. The aggregations form on or near the full moons during November through February when water temperatures are 25–26 degrees Celsius (Colin, 1992). Targeting of spawning aggregations can cause local populations to be extirpated in a matter of a few years (Morris *et. al.,* 2000).

The petitioner claims that throughout the Caribbean, inadequate regulations have led to heavy fishing of the spawning aggregations. Numerous examples exist of the discovery of spawning aggregations, followed by heavy exploitation, and then loss of the spawning aggregation in subsequent years (see Sadovy, 1992 for examples). In other countries, heavy fishing of aggregations led to a fishery composed of primarily juveniles or to the species being considered fishery extinct (Sadovy, 1992). Because there was no evident increase in the number of Nassau grouper following the fishing ban imposed in the Atlantic and Caribbean, Sadovy and Eklund (1999) state an increase is unlikely given presumed illegal capture. In the U.S., where harvest has been prohibited, regulations have not totally prevented harvest of grouper. For example, harvest has been prohibited since 1990 in Puerto Rico yet Nassau grouper landings averaged 12,539 pounds annually between 1991–2010. Further, in waters off the continental U.S., population levels are low relative to historical levels, having shown little response to a fishing moratorium established in 1992 (NMFS, 2010).

The information presented by the petitioner and otherwise available to us indicates that Nassau grouper populations in many Caribbean countries declined as a result of overexploitation and inadequacy of regulatory mechanisms. Much of the data we and the petition use are quite dated with some more than two decades old, and we are concerned about relying on such old information for this finding; however, we believe the seriousness of these threats and the lack of a response

by the population to regulatory mechanisms over the last twenty years are sufficient to indicate that Nassau grouper face an extinction risk of concern. Declines in landings, catch per unit effort, and, by implication, abundance have been reported throughout its range, and it is now considered to be commercially extinct in a number of areas (Sadovy and Eklund, 1999). Further, heavy fishing, especially of spawning aggregations, and certain fishing practices such as spearfishing and the excessive capture of juveniles in small-mesh fish traps, are the attributed causes for severe declines (Sadovy and Eklund, 1999). The reported extirpations of spawning aggregations, in particular, causes us to be concerned that overexploitation may pose a significant risk to the Nassau grouper, as the demographic impacts of targeting the reproductive population can be much more serious than merely fishing down a stock's overall abundance.

In addition to the information on overutilization and inadequacy of existing regulatory mechanisms, the petitioner provided information addressing the other ESA section 4(a)(1) listing factors: the present and threatened destruction, modification, or curtailment of habitat or range, and the other natural or manmade factors that may be affecting the continued existence of Nassau grouper. However, because we have determined that the information provided on overutilization and inadequacy of existing regulatory mechanisms presents substantial information indicating the petitioned action may be warranted, we do not find a need to conduct a detailed analysis of the other submitted information here.

Petition Finding

We have determined after reviewing the information contained in the petition, as well as information readily available in our files, that there is substantial information indicating that the petitioned action may be warranted, based on the threats of overutilization for commercial, recreational, scientific or education purposes, and inadequacy of existing regulatory mechanisms. Because we have found that substantial information was presented on the above factors, we will commence a status review of the species. During our status review, we will fully address all five of the listing factors set out in section 4(a)(1). At the conclusion of the status review, we will determine whether the petitioned action is warranted. As previously noted, a ''may be warranted'' finding does not prejudge the outcome of the status review.

Information Solicited

As required by section 4(b)(3)(B) of the ESA and NMFS' implementing regulations (50 CFR 424.14(b)(2)), we are to commence a review of the status of the species and make a determination within 12 months of receiving the petition as to whether the petitioned action is warranted. We intend that any final action resulting from this review be as accurate and as effective as possible. Therefore, we open a 60-day public comment period to solicit information from the public, government agencies, the scientific community, industry, and any other interested parties on the status of Nassau grouper throughout its range including: (1) Status of historical and current spawning aggregation sites; (2) historical and current distribution, abundance, and population trends; (3) biological information (life history, genetics, population connectivity, etc.); (4) management measures, regulatory mechanisms designed to protect spawning aggregations, and enforcement information; (5) any current or planned activities that may adversely impact the species; and (6) ongoing or planned efforts to protect and restore the species and their habitats. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents. Section 4(b)(1)(A) of the ESA and NMFS' implementing regulations (50 CFR 424.11(b)) require that a listing determination be made solely on the basis of the best scientific and commercial data, without consideration of possible economic or other impacts of the determination. During the 60-day public comment period we are seeking information related only to the status of Nassau grouper throughout its range.

Peer Review

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service, published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure listings are based on the best scientific and commercial data available. The Office of Management and Budget issued its Final Information Quality Bulletin for Peer Review on December 16, 2004. The Bulletin went into effect June 16, 2005, and generally requires that all ''influential scientific information'' and ''highly influential scientific information'' disseminated on or after that date be peer reviewed. Because the information used to evaluate this petition may be considered ''influential scientific information,'' we solicit the names of recognized experts in the field that could take part in the peer review process for this status review (see **ADDRESSES**). Independent peer reviewers will be selected from the academic and scientific community, tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

References Cited

A complete list of references is available upon request from the Southeast Regional Office, Protected Resource Division (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 2, 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.

[FR Doc. 2012–24930 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120706221–2481–01]

RIN 0648–XC106

Atlantic Highly Migratory Species; 2013 Atlantic Shark Commercial Fishing Season

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would establish opening dates and adjust quotas for the 2013 fishing season for the Atlantic commercial shark fisheries. Quotas would be adjusted as allowable based on any over- and/or underharvests experienced during the 2011 and 2012 Atlantic commercial shark fishing seasons. We propose to keep the porbeagle shark fishery closed in 2013 due to the small quota and

difficulties in accurately monitoring such a small quota. In addition, NMFS proposes season openings based on previously implemented adaptive management measures to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas. The proposed measures could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic, including the Gulf of Mexico and Caribbean.

DATES: Written comments will be accepted until October 28, 2012.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0175, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0175 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail:* Submit written comments to 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope ''Comments on the Proposed Rule to Establish Quotas and Opening Dates for the 2013 Atlantic Shark Commercial Fishing Season.''
- *Fax:* 301–427–8503, Attn: Karyl Brewster-Geisz or Guy DuBeck.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Guý DuBeck or Karyl Brewster-Geisz at 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic commercial shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments under the Magnuson-Stevens Act are implemented by regulations at 50 CFR part 635. For the Atlantic commercial shark fisheries, the 2006 Consolidated HMS FMP and its amendments established, among other things, commercial quotas for species and species complexes, accounting measures for under- and overharvests for the shark fisheries, and adaptive management measures such as flexible opening dates for the fishing season and inseason adjustments to shark trip limits, which provide flexibility in management in the furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

Accounting for Under- and Overharvests

This proposed rule would adjust the quota levels for the different shark species and complexes for the 2013 Atlantic commercial shark fishing season based on over- and underharvests that occurred during the 2011 and 2012 fishing seasons, consistent with existing regulations at § 635.27(b)(1)(i). Over- and underharvests are accounted for in the same region and/or fishery in which they occurred the following year, depending on stock status. Shark stocks that are overfished, have overfishing occurring, or that have an unknown stock status, or complexes that contain one or more stocks that are overfished, have overfishing occurring, or that have an unknown stock status, will not have underharvest carried over in the following year. Stocks that are not overfished and have no overfishing occurring will have any underharvest carried over in the following year, up to 50 percent of the base quota.

Although there were underharvests in the sandbar shark, non-sandbar large coastal shark, blacknose shark, blue shark, and pelagic shark (other than porbeagle or blue sharks) fisheries, those underharvests cannot be carried over to the 2013 fishing season because those stocks have been determined to be overfished, overfished with overfishing occurring, or have an unknown status. Porbeagle sharks have been declared to be overfished with overfishing occurring, and the quota was overharvested in 2011 and 2012. Thus, for all of these species, the 2013 proposed quota would be equal to the appropriate base quota minus any overharvests that occurred in the 2011 and 2012 fishing seasons.

However, since the non-blacknose small coastal shark complex has been determined not to be overfished and has no overfishing occurring, the underharvest (up to 50 percent of the base quota) from the 2012 fishing season can be applied to the 2013 quota.

2013 Proposed Quotas

This rule proposes adjustments to the base commercial quotas due to over- and underharvests that occurred in 2011 and 2012, where allowable, taking into consideration the stock status as required under existing regulations.

The quotas in this proposed rule are based on dealer reports received as of August 22, 2012. In the final rule, we will adjust the quotas based on dealer reports received as of October 31, 2012. Thus, all of the 2013 proposed quotas for the respective shark complexes/species are subject to further adjustment for any overharvests reflected after considering the October 31 dealer reports. All dealer reports that are received after October 31, 2012, will be used to adjust the 2014 quotas, as appropriate. In addition, the 5-year quota reduction to account for overharvest of the non-sandbar large coastal shark and sandbar shark fisheries established in Amendment 2 to the 2006 Consolidated HMS FMP ends on December 31, 2012, and quotas will increase to annual base levels established in Amendment 2 to the 2006 Consolidated HMS FMP. We also propose to adjust the non-blacknose small coastal shark quota due to underharvest from the 2012 fishing season, and to adjust the porbeagle shark quota to account for overharvest from the 2011 and 2012 fishing season.

Due to the small quota and difficulties in accurately monitoring such a small quota, we propose to keep the porbeagle shark fishery closed in 2013. The porbeagle shark fishery landings in 2012 exceeded the quota by 259 percent with the addition of late reports in December 2011, which must be accounted for in 2013. The combined overharvest in 2011 and 2012 for the porbeagle shark fishery would result in a very small quota (0.5 mt dw; 1,001 lb dw). The proposed 2013 quotas by species and species group are summarized in Table 1.

TABLE 1—2013 PROPOSED QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK FISHERIES *

Species group	Region	2012 Annual quota (A)	Preliminary 2012 landings [1] (B)	Overharvest/ Underharvest (C)	2013 Base annual quota (D)	2013 Proposed quota (D+C)	Season opening dates
Non-Sandbar Large Coastal Sharks.	Gulf of Mexico	392.8 (866,063 lb dw).	369.8 (815,236 lb dw).	.....	439.5 (968,922 lb dw).	439.5 (968,922 lb dw).	On or about January 1, 2013.
	Atlantic	183.2 (403,889 lb dw).	32.9 (72,648 lb dw).	.....	188.3 (415,126 lb dw).	188.3 (415,126 lb dw).	
Non-Sandbar Large Coastal Shark Research Quota.	No regional quotas.	37.5 (82,673 lb dw).	9.1 (20,015 lb dw).	.....	50.0 (110,230 lb dw).	50.0 (110,230 lb dw).	
Sandbar Research Quota.	.....	87.9 (193,784 lb dw).	24.7 (54,439 lb dw).	.....	116.6 (257,056 lb dw).	116.6 (257,056 lb dw).	
Non-Blacknose Small Coastal Sharks.	.....	332.4 (732,808 lb dw).	133.8 (294,871 lb dw).	110.8 [2] (244,269 lb dw).	221.6 (488,539 lb dw).	332.4 (732,808 lb dw).	
Blacknose Sharks.	.....	19.9 (43,872 lb dw).	10.9 (23,991 lb dw).	.....	19.9 (43,872 lb dw).	19.9 (43,872 lb dw).	
Blue Sharks	.....	273.0 (601,856 lb dw).	8.6 (18,868 lb dw).	.....	273.0 (601,856 lb dw).	273.0 (601,856 lb dw).	
Porbeagle Sharks.	.....	0.7 (1,585 lb dw).	1.9 (4,105 lb dw).	−1.2 [3] (2,747 lb dw).	1.7 (3,748 lb dw).	0.5 (1,001 lb dw).	Closed for 2013.
Pelagic Sharks Other Than Porbeagle or Blue.	.....	488 (1,075,856 lb dw).	99.7 (219,691 lb dw).	.....	488.0 (1,075,856 lb dw).	488.0 (1,075,856 lb dw).	On or about January 1, 2013.

*All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise. Table includes landings data through August 22, 2012, and quotas are subject to change based on landings through October 31, 2012.

[1] Landings are from January 1, 2012, until August 22, 2012, and are subject to change.

[2] This adjustment accounts for the underharvest in 2012. While the total underharvest is 198.6 mt dw, we may account for underharvest only up to 50 percent of the base annual quota or 110.8 mt dw (244,269 lb dw).

[3] This adjustment accounts for overharvest in 2011 and 2012. After the final rule establishing the 2012 quotas, the porbeagle shark quota was overharvested by an additional <0.1 mt dw (227 lb dw). As of August 22, 2012, 1.1 mt dw (2,520 lb dw) was harvested above the 2012 porbeagle shark quota. The combined overharvest from 2011 and 2012 is 1.2 mt dw (2,747 lb dw).

1. Proposed 2013 Quotas for Non-Sandbar Large Coastal Sharks and Sandbar Sharks Within the Shark Research Fishery

The 2013 proposed commercial quotas within the shark research fishery are 50.0 mt dw (110,230 lb dw) for non-sandbar large coastal sharks and 116.6 mt dw (257,056 lb dw) for sandbar sharks. Since the 5-year quota reduction to account for overharvest of the non-sandbar large coastal shark and sandbar shark fisheries ends on December 31, 2012, the 2013 proposed quotas increase to the levels established in Amendment 2 to the 2006 Consolidated HMS FMP.

Within the shark research fishery, as of August 22, 2012, preliminary reported landings of non-sandbar large coastal sharks were at 24 percent (9.1 mt dw) of their 2012 quota levels, and sandbar shark reported landings were at 28 percent (24.7 mt dw) of their 2012 quota levels. Reported landings have not exceeded the 2012 quota to date. Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(1)(vii), we are not proposing to adjust 2013 quotas in the shark research fishery based on any overharvests.

Under § 635.27(b)(1)(i), because sandbar sharks and scalloped hammerhead sharks within the non-sandbar large coastal shark complex have been determined to be either overfished or overfished with overfishing occurring, underharvests for these species and/or complexes would not be applied to the 2013 quotas. Therefore, we propose 2013 quotas for non-sandbar large coastal sharks and sandbar sharks within the shark research fishery of 50.0 mt dw (110,230 lb dw) and 116.6 mt dw (257,056 lb dw), respectively. NMFS has analyzed the environmental effects of this base quota in the Environmental Impact Statement for Amendment 2. This base quota of 116.6 mt dw was implemented in Amendment 2, but the quota was reduced to 87.9 mt dw for 5 years to account for large overharvest in 2007.

2. Proposed 2013 Quotas for the Non-Sandbar Large Coastal Sharks in the Gulf of Mexico Region

The 2013 proposed quota for non-sandbar large coastal sharks in the Gulf of Mexico region is 439.5 mt dw (968,922 lb dw). Since the 5-year quota reduction for overharvest of the non-sandbar large coastal shark fishery ends on December 31, 2012, the 2013 quotas would revert to the levels established in Amendment 2 to the 2006 Consolidated HMS FMP.

As of August 22, 2012, preliminary reported landings for non-sandbar large coastal sharks in the Gulf of Mexico region were at 94 percent (369.8 mt dw) of their 2012 quota levels. Reported landings have not exceeded the 2012 quota to date. Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(1)(vii), we are not proposing to adjust 2013 quotas in the non-sandbar large coastal sharks in the Gulf of Mexico region, because there have not been any overharvests.

Given the status of scalloped hammerhead sharks within the non-sandbar large coastal shark complex, any underharvests cannot be accounted for pursuant to § 635.27(b)(1)(iii). Therefore, we propose 2013 quotas for non-sandbar large coastal sharks in the Gulf of Mexico region of 439.5 mt dw (968,922 lb dw), consistent with Amendment 2 levels.

3. Proposed 2013 Quotas for the Non-Sandbar Large Coastal Sharks in the Atlantic Region

The 2013 proposed quota for non-sandbar large coastal sharks in the Atlantic region is 188.3 mt dw (415,126 lb dw). Since the 5-year quota reduction for overharvest of the non-sandbar large coastal shark fishery ends on December 31, 2012, the 2013 quotas would increase to the levels established in Amendment 2 to the 2006 Consolidated HMS FMP.

As of August 22, 2012, preliminary reported landings for non-sandbar large coastal sharks in the Atlantic region were at 18 percent (32.9 mt dw) of their 2012 quota levels. To date, reported landings do not exceed the quota. As such, we propose a 2013 commercial non-sandbar large coastal sharks quota in the Atlantic region of 188.3 mt dw (415,126 lb dw).

4. Proposed 2013 Quotas for Small Coastal Sharks and Pelagic Sharks

The 2013 proposed annual commercial quotas for non-blacknose small coastal sharks, blacknose sharks, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) are 332.4 mt dw (732,809 lb dw), 19.9 mt dw (43,872 lb dw), 273 mt dw (601,856 lb dw), 0.5 mt dw (1,001 lb dw), and 488 mt dw (1,075,856 lb dw), respectively.

As of August 22, 2012, preliminary reported landings of non-blacknose small coastal sharks, blacknose sharks, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) were at 40 percent (133.8 mt dw), 55 percent (10.9 mt dw), 3 percent (8.6 mt dw), 259 percent (1.9 mt dw), and 20 percent (99.7 mt dw), of their 2012 quota levels, respectively. As described above, while we may adjust quotas for underharvests only when allowable depending on the stock status, we will adjust quotas for overharvests.

Non-blacknose small coastal sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(1)(i), any underharvests for the non-blacknose small coastal sharks therefore could be applied to the 2013 quotas. During the 2012 fishing season to date, the non-blacknose small coastal shark quota has been underharvested by 110.8 mt dw (244,269 lb dw). Accordingly, we propose to increase the 2013 non-blacknose small coastal shark quota to adjust for anticipated underharvests in 2012 as allowed. The proposed 2013 adjusted base annual quota for non-blacknose small coastal sharks is 332.4 mt dw (732,809 lb dw) (221.6 mt dw annual base quota + 110.8 mt dw 2012 underharvest = 332.4 mt dw 2013 adjusted annual quota).

Porbeagle sharks have been declared to be overfished with overfishing occurring. Pursuant to § 635.27(b)(1)(i), any overharvests of porbeagle sharks would be applied to the 2013 quotas. In the final rule establishing the 2012 quotas, we accounted for an overharvest of porbeagle sharks of 1.0 mt dw (2,163 lb dw) using data that was reported as of October 31, 2011. Between that date and December 31, 2011, porbeagle sharks were overharvested by an additional 227 lb dw (less than 0.1 mt dw). As of August 22, 2012, an additional 1.1 mt dw (2,520 lb dw) has been overharvested above the 2012 porbeagle shark quota. The proposed 2013 adjusted annual commercial porbeagle quota is 0.5 mt dw (1,001 lb dw) (1.7 mt dw annual base quota − < 0.1 mt dw 2011 overharvest − 1.1 mt dw 2012 overharvest = 0.5 mt dw 2012 adjusted annual quota), but we propose to keep the fishery closed in 2013 due to the small quota and difficulties in accurately monitoring such a small quota.

Blacknose sharks and other pelagic species are overfished, have overfishing occurring, or have an unknown status. As of August 22, 2012, the 2012 commercial quota had not been reached or exceeded. Therefore, the 2013 proposed quotas would be the base annual quotas for blacknose sharks, blue sharks, and pelagic sharks (other than blue and porbeagle sharks), or (19.9 mt dw (43,872 lb dw), 273 mt dw (601,856 lb dw), and 488 mt dw (1,075,856 lb dw), respectively.

Proposed Fishing Season Notification for the 2013 Atlantic Commercial Shark Fishing Season

For each fishery, we considered the seven ''Opening Fishing Season Criteria'' listed at § 635.27(b)(1)(ii). These include:

(A) The available annual quotas for the current fishing season for the different species/complexes based on any over- and/or underharvests experienced during the previous commercial shark fishing seasons; (B) Estimated season length based on available quota(s) and average weekly catch rates of different species/complexes in the Atlantic and Gulf of Mexico regions from the previous years; (C) Length of the season for the different species/complexes in the previous years and whether fishermen were able to participate in the fishery in those years; (D) Variations in seasonal distribution, abundance, or migratory patterns of the different species/complexes based on scientific and fishery information; (E) Effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species/complexes quotas; (F) Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; and/or, (G) Effects of a delayed opening with regard to fishing opportunities in other fisheries.

Thus, we examined the 2011 and 2012 over- and/or underharvests of the different species/complexes to determine the effects of the 2013 proposed quotas on fishermen across regional fishing area. The potential season length and previous catch rates were examined to ensure that equitable fishing opportunities would be provided to fishermen. Lastly, we examined the seasonal variation of the different species/complex and the effects on fishing opportunities.

In addition to these criteria, we also considered other relevant factors, such as general input from the public and potential management measures in Amendment 5 to the 2006 Consolidated HMS FMP before arriving at the proposed opening dates for the 2013 Atlantic shark fisheries.

We propose that the 2013 Atlantic commercial shark fishing season for the non-sandbar large coastal sharks fishery in the Gulf of Mexico and Atlantic, shark research, non-blacknose small coastal sharks, blacknose sharks, blue sharks, and pelagic sharks (other than porbeagle and blue sharks) in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, open on or about January 1, 2013, with the publication of the final rule for this action.

In the Gulf of Mexico non-sandbar large coastal shark fishery, opening the fishing season again on or about January 1 would provide, to the extent practicable, equitable opportunities across the fisheries management region as it did for the 2012 fishing season. This opening date is consistent with all the criteria listed in § 635.27(b)(1)(ii), but particularly with the requirement that we consider the length of the season for the different species/complexes in the previous years and whether fishermen were able to participate in the fishery in those years (§ 635.27(b)(1)(ii)(C)).

In the Atlantic region, we delayed the opening of the non-sandbar large coastal shark fishery until July 15 in 2010, 2011, and 2012, in order to allow for more equitably distributed shark fishing opportunities, as intended by

Amendment 2 to the 2006 Consolidated HMS FMP. In 2012, we proposed to open the Atlantic non-sandbar large coastal shark fishery on the effective date of the final rule implementing the Atlantic HMS Electronic Dealer Reporting System (76 FR 37750) or July 15, 2012, whichever occurred first. Because the Atlantic HMS Electronic Dealer Reporting System was delayed, the fishery opened on July 15. The HMS Electronic Dealer Reporting System final rule has now published and the system will be implemented on January 1, 2013 (77 FR 47303). As such, we are proposing to use the inseason trip limit adjustment criteria in the regulations per § 635.24(a)(8) for the first time. The inseason trip limit adjustment criteria would allow more equitable fishing opportunities across the fishery. The proposed opening date of January 1 would allow fishermen to harvest some of the 2013 quota at the beginning of the year, when sharks are more prevalent in the South Atlantic area. If it appears that the quota will be taken too quickly to allow fishermen throughout the entire region an opportunity to fish, we could reduce the commercial retention limits per while being consistent with § 635.27(b)(1)(ii)(A), (B), (C) and (E). This management measure is consistent with all the inseason trip limit adjustment criteria listed in § 635.24(a)(8), but particularly with the requirement that catch rates in one part of a region not preclude vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota (§ 635.24(a)(8)(vi)).

If that occurs, we would file with the Office of the Federal Register for publication notification of any inseason adjustments to reduce retention limits to between 0–36 sharks per trip. We could later increase the commercial retention limits per trip, such as on or about July 15, 2013, to provide fishermen in the North Atlantic area an opportunity to retain non-sandbar large coastal sharks when they are prevalent in that area, if warranted considering all relevant factors. Based on the fishing rates in the 2009 fishing season, if we open the fishery earlier than July 15 and do not adjust the commercial retention limits throughout the season, then fishermen in the South Atlantic area would likely catch the entire Atlantic quota before the sharks migrate to the North Atlantic area.

We also propose not to open the porbeagle fishery in 2013. The porbeagle fishery landings in 2012 exceeded the quota by 259 percent with the addition of late reports in December 2011, which must be accounted for in 2013. The combined overharvest in 2011 and 2012 for the porbeagle fishery would result in a very small quota (0.5 mt dw; 1,001 lb dw). Due to the small quota and difficulties in accurately monitoring such a small quota, we propose to keep the fishery closed in 2013. This proposal is based on the availability of the annual quota based on overharvests in the previous fishing seasons (§ 635.27(b)(1)(ii)(A)).

At this time, we would be implementing the proposed quotas based on current regulations. Other future actions, such as the anticipated Amendment 5 to the 2006 Consolidated HMS FMP, which would address several recent shark stock assessments, could affect the quotas implemented in the 2013 shark season rule. Any changes to the quotas would be addressed in any such later Amendment.

All of the shark fisheries, except for porbeagle sharks (which would remain closed the entire year), would remain open until December 31, 2013, or until we determine that the fishing season landings for sandbar shark, non-sandbar large coastal sharks, blacknose sharks, non-blacknose small coastal sharks, blue sharks, or pelagic sharks (other than porbeagle or blue sharks) have reached, or are projected to reach, 80 percent of the available quota. At that time, consistent with § 635.28(b)(1), we will file for publication with the Office of the Federal Register a notice of closure for that shark species group and/or region that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until we announce, via a notice in the **Federal Register**, that additional quota is available, the fishery for the shark species group and, for non-sandbar large coastal sharks, region, would remain closed, even across fishing years, consistent with § 635.28(b)(2).

Request for Comments

Comments on this proposed rule may be submitted via *http://www.regulations.gov,* mail, or fax. We solicit comments on this proposed rule by October 28, 2012 (see **DATES** and **ADDRESSES**).

Public Hearings

Public hearings on this proposed rule are not currently scheduled. If you would like to request a public hearing, please contact Guý DuBeck or Karyl Brewster-Geisz by phone at 301–427–8503.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The IRFA analysis follows.

In compliance with section 603(b)(1) of the RFA, section 603(b)(1) of the RFA requires that we explain the purpose of the rule. This rule, consistent with the Magnuson-Stevens Act and the 2006 Consolidated HMS FMP and its amendments, is being proposed to adjust the 2013 proposed quotas for non-sandbar large coastal sharks, sandbar sharks, blacknose sharks, non-blacknose small coastal sharks, blue sharks, porbeagle sharks, or pelagic sharks (other than porbeagle or blue sharks) based on any over- and/or underharvests from the previous fishing year. These adjustments are being implemented according to the regulations implementing the 2006 Consolidated HMS FMP and its amendments. Thus, we would expect few, if any, economic impacts to fishermen other than those already analyzed in the 2006 Consolidated HMS FMP and its amendments, based on the quota adjustments. Not opening the porbeagle shark fishery in 2013 is due to the difficulties in accurately monitoring the small quota. This would have beneficial ecological impacts for porbeagle sharks, while the negative economic impacts are described below. An additional purpose is to use implemented management measures to allow inseason adjustments in the trip limits to slow the fishery down during the season, as necessary. This management measure would provide, to the extent practicable, equitable opportunities across the fishing management region while also considering the ecological needs of the species.

Under section 603(b)(2) of the RFA, we must explain the rule's objectives, which are to: (1) Adjust the annual quotas for porbeagle sharks due to overharvests in 2011 and 2012, and for non-blacknose small coastal sharks due to underharvests in 2012; (2) establish

the opening dates for all of the shark fisheries in the Atlantic and Gulf of Mexico regions; and, (3) consider the need to adjust the trip limits inseason for non-sandbar large coastal sharks.

Section 603(b)(3) of the RFA requires Federal agencies to provide an estimate of the number of small entities to which the rule would apply. We consider all HMS permit holders to be small entities because they either had average annual receipts of less than $4.0 million for fish-harvesting, average annual receipts of less than $6.5 million for Charter/headboat, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. These are the Small Business Administration (SBA) size standards for defining a small versus large business entity in this industry.

The commercial shark fisheries are comprised of fishermen who hold shark directed or incidental limited access permits (LAP) and the related industries, including processors, bait houses, and equipment suppliers, all of which we consider to be small entities according to the size standards set by the SBA. The proposed rule would apply to the approximately 213 directed commercial shark permit holders, 265 incidental commercial shark permit holders, and 96 commercial shark dealers as of August 2012.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603 (b)(4)). Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)). Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements as domestically implemented, domestic laws, and FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act (ESA), the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act.

In compliance with section 603(c) of the RFA, each IRFA must also contain a description of any significant alternatives to the proposed rule which would accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities. Additionally, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities. In order to meet the objectives of this final rule, consistent with the Magnuson-Stevens Act and the ESA, we cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities. We do not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act.

This rulemaking does not establish management measures to be implemented, but rather implements previously adopted and analyzed measures with adjustments, as specified in Amendment 2 and Amendment 3 to the 2006 Consolidated HMS FMP and the Environmental Assessment (EA) that accompanied the 2011 shark quota specifications rule (75 FR 76302; December 8, 2010). Thus, NMFS proposes to adjust quotas established and analyzed in Amendment 2 and Amendment 3 to the 2006 Consolidated HMS FMP by subtracting the underharvest or adding the overharvest as allowable. Similarly, the ranges of management measures are consistent with the requirements of the Magnuson-Stevens Act that were previously analyzed in the EA with the 2011 shark quota specifications rule. Thus, NMFS has limited flexibility to modify the management measures or quotas in this rule, the impacts of which were analyzed in previous regulatory flexibility analyses.

Based on the 2010 ex-vessel price ($0.67/large coastal shark lb, $0.68/small coastal shark lb, $1.21/pelagic lb, and $13.48/lb for shark fins), fully harvesting the unadjusted 2013 Atlantic shark commercial baseline quotas could result in total fleet revenues of $6,242,548. We propose to keep the porbeagle shark fishery closed in 2013, which results in the total revenue loss of $7,061 (if we kept it open, but reduced it by the overharvests of 2011 and 2012, the net revenue loss in the fishery would amount to $5,175). The upward adjustment due to the underharvests in 2012 non-blacknose small coastal shark fishery would result in a $330,740 gain in revenues. These revenues are similar to the gross revenues analyzed in Amendment 2 and Amendment 3 to the 2006 Consolidated HMS FMP. The IRFAs for those amendments concluded that the economic impacts on these small entities, resulting from rules such as this one that adjust the trip limits inseason through proposed and final rulemaking, are expected to be minimal. Amendments 2 and 3 to the 2006 Consolidated HMS FMP and the EA with the 2011 shark quota specifications rule assumed we would be conducting annual rulemakings and considered the IRFAs in the economic and other analyses at the time.

For this rule, we reviewed the criteria at § 635.27(b)(ii) to determine when opening each fishery would provide equitable opportunities for fishermen while also considering the ecological needs of the different species. The opening of the fishing season could vary depending upon the available annual quota, catch rates, and number of fishing participants during the year. For the 2013 fishing season, we are proposing to open the non-sandbar large coastal shark fishery in the Gulf of Mexico and Atlantic, shark research, blacknose shark, non-blacknose small coastal shark, and pelagic shark fisheries on the effective date of the final rule for this action (expected to be on or about January 1). The direct and indirect economic impacts would be neutral on a short- and long-term basis, because we are proposing not to change the opening dates of these fisheries from the status quo.

Opening the non-sandbar large coastal sharks in the Atlantic region on the effective date of the final rule for this action (expected to be on or about January 1) would result in short-term, direct, moderate, beneficial economic impacts as fishermen and dealers in the south Atlantic would be able to fish for non-sandbar large coastal sharks starting on or about January. South Atlantic fishermen would be able to fish earlier in the 2013 fishing season compared to the 2010, 2011, and 2012 fishing seasons, which did not start until July 15. South Atlantic fishermen commented during the public comment period for the 2011 and 2012 shark specification rulemaking that they felt that opening the fishery in July was not fair to them because, by July, the sharks have migrated north and are no longer available. With the implementation of the HMS electronic reporting system in 2013, we should be able to monitor the quota on a real-time basis. This ability, along with the inseason adjustment criteria in § 635.24(a)(8), should allow us the flexibility to further provide

equitable fishing opportunities for fishermen across all regions, to the extent practicable. Depending on how quickly the quota is being harvested, we could reduce the retention limits to 0–36 sharks per trip to ensure that fishermen farther north have sufficient quota for a fishery later in the 2013 fishing season. The direct impacts to shark fishermen in the Atlantic region of reducing the trip limit will depend on the needed reduction in the trip limit and the timing of such a reduction. Therefore, such a reduction in the trip limit is only anticipated to have minor adverse direct economic impacts to fishermen in the short-term; long-term impacts are not anticipated as these reductions would not be permanent.

In the North Atlantic area, a potential January 1 and July 15 opening for the non-sandbar large coastal sharks would have direct, minor, beneficial economic impacts in the short-term for fishermen as they would have access to the non-sandbar large coastal shark quota in 2013. Fishermen in the North Atlantic area did not have or had limited access to the non-sandbar large coastal shark quota in 2009. There would be indirect, minor, beneficial economic impacts in the short- and long-term for shark dealers and other entities that deal with shark products in this region as they would also have access to non-sandbar large coastal shark products in 2013. Thus, allowing the split season in 2013 would cause neutral cumulative economic impacts, since it would allow for a more equitable distribution of the quotas among constituents in this region, which was the original intent of Amendment 2.

We also propose to keep the porbeagle fishery closed in 2013. This action would cause direct and indirect moderate, adverse, short-term economic impacts on shark fishermen and other entities that rely on porbeagle sharks. The long-term economic impacts would be neutral if we open the porbeagle shark fishery in 2014 because the fishery would open in 2014 under the annual base quota of 1.7 mt dw.

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

Dated: October 3, 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.

[FR Doc. 2012–24936 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 77, No. 196
Wednesday, October 10, 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

October 4, 2012.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. 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), New Executive Office Building, Washington, DC; *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 by November 9, 2012. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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.

Agricultural Marketing Service

Title: Application for Plant Variety Protection Certificate and Objective Description of Variety.

OMB Control Number: 0581–0055.

Summary of Collection: The Plant Variety Protection Act (PVPA) (December 24, 1970; 84 Stat. 1542, 7 U.S.C. 2321 *et seq.*) was established to encourage the development of novel varieties of sexually-reproduced plants and make them available to the public, providing intellectual property rights (IPR) protection to those who breed, develop, or discover such novel varieties, and thereby promote progress in agriculture in the public interest. The PVPA is a voluntary user funded program that grants intellectual property ownership rights to breeders of new and novel seed-and tuber-reproduced plant varieties. To obtain these rights the applicant must provide information that shows the variety is eligible for protection and that it is indeed new, distinct, uniform, and stable, as the law requires. Applicants are provided with applications to identify the information that is required to issue a certificate of protection.

Need and Use of the Information: Applicants must complete the ST–470 series of forms ''Application for Plant Variety Protection.'' The Agricultural Marketing Service will use the information from the applicant to be evaluated by examiners to determine if the variety is eligible for protection under the PVPA. If this information were not collected there will be no basis for issuing certificate of protection, and no way for applicants to request protection.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 76.

Frequency of Responses: Reporting: On occasion; Other (varies).

Total Burden Hours: 2,435.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–24901 Filed 10–9–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 4, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; *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 publication of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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.

National Agricultural Statistics Service

Title: Stocks Reports

OMB Control Number: 0535–0007

Summary of Collection: The primary function of the National Agricultural

Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production, stocks, disposition, and prices. As part of this function, estimates are made for stocks of off-farm grains and oilseeds, potatoes, peanuts, hops, and rice. Grain and oilseed stocks in all positions (on-farm and off-farm) are estimated quarterly. Grain stock estimates are one of the most important NASS estimates, which are watched closely by growers and industry groups. General authority for data collection is granted under U.S. Code Title 7, Section 2204. The Hop Growers of America provides the data collection for much of the production information because of sensitivity issues an impartial third party, NASS, collects stocks and price information.

Need and Use of the Information: NASS collects information to administer farm program legislation and make decisions relative to the export-import programs. Estimates of stocks provide essential statistics on supplies and contribute to orderly marketing. Farmers and agribusiness firms use these estimates in their production and marketing decisions. Collecting this information less frequently would eliminate data needed by government, industry and farmers to keep abreast of changes at the State and national level.

Description of Respondents: Business or other for profit; Farms.

Number of Respondents: 9,119.

Frequency of Responses: Reporting: Monthly; Quarterly; Semi-annually; Annually.

Total Burden Hours: 9,889.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–24902 Filed 10–9–12; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Forest Service

Helena National Forest; Montana; Blackfoot Travel Plan EIS

AGENCY: Forest Service, USDA.

ACTION: Corrected Notice of Intent to prepare an environmental impact statement for the Blackfoot Travel Plan. The original notice was published in the **Federal Register** on October 29, 2010 (FR Doc. 2010–27353, page 66718–66719) and a corrected notice was published on November 26, 2010 (FR Doc. 2010–29772, page 72784–72785).

SUMMARY: The Helena National Forest (HNF) is submitting a corrected Notice of Intent (NOI) in regard to the Blackfoot Travel Plan Environmental Impact Statement (EIS) that is being prepared. This NOI includes the correction of the previous Blackfoot Travel Plan NOI and includes a new alternative, alternative 3 and a potential programmatic plan amendment to the Helena National Forest Plan regarding the standard for elk hiding cover/open road density index. The plan amendment would be signed as a separate decision to the Blackfoot Travel Plan EIS. The proposed programmatic plan amendment would establish a new standard for elk security for the herd units located within the project area. As a result, HNF Forest Plan Standard 4a would be amended as it relates to the Blackfoot travel planning area. This programmatic plan amendment was not explicitly stated in the previous two **Federal Register** notices. All other aspects of the proposal are the same as those described in the previous **Federal Register** notices. The Helena National Forest is preparing an EIS to analyze the effects of proposed changes to existing motorized public access routes and prohibitions within the Blackfoot travel planning area. Consistent with Forest Service travel planning regulations, the resulting available public motorized access routes and areas would be designated on a Motor Vehicle Use Map (MVUM). Upon publishing the MVUM, public use of a motor vehicle other than in accordance with those designations would be prohibited.

DATES: The Draft EIS is currently being prepared and will consider public scoping comments that have been received to date; all previous comments on this project will be retained and considered. The Draft EIS will include more details regarding the programmatic plan amendment and alternative 3 and will be available for public comment and review in January of 2013, with a Final EIS expected in July of 2013. At this time, there is no formal notice and comment period that will provide the commenter appeal rights, but comments specific to this new information are welcome and will be fully considered.

ADDRESSES: Comments can be sent to the Helena National Forest Lincoln Ranger District, 1569 Hwy 200 Lincoln, MT 59639. Comments may also be sent via email to *comments-northern-helena-lincoln@fs.fed.us,* or via facsimile to 406–362–4253. Please indicate the name ''Blackfoot Travel Plan'' in the subject line of your email. It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should clearly articulate the reviewer's concerns and contentions. Comments received in response to this solicitation, including names and addresses of those who comment, will become part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents.

FOR FURTHER INFORMATION CONTACT: Amber Kamps, Lincoln District Ranger, 1569 Hwy 200, Lincoln, MT 59639, (406) 362–7002 or at the Helena National Forest Web page at *http://www.fs.fed.us/nepa/fs-usda-pop.php/?project=30899.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action: The overall objective of this proposal is to provide a manageable system of designated public motorized access routes and areas within the Blackfoot Travel area, consistent with and to achieve the purposes of Forest Service travel management regulations at 36 CFR part 212 Subpart B. The existing system of available public motor vehicle routes and areas in the Blackfoot Travel area is the culmination of multiple agency decisions over recent decades. Public motor vehicle use of the majority of this available system continues to be manageable and consistent with the current travel management regulation. Exceptions have been identified, based on public input and the criteria listed at 36 CFR 212.55, and in these cases changes are proposed to meet the overall objectives. The decisions will ensure compliance with the Forest Plan and Interagency requirements for grizzly bear security and habitat within the recovery zone.

Proposed Action (Alternative 2): The Helena National Forest proposes the following changes to the existing motorized public access routes and prohibitions within the Blackfoot travel planning area. Consistent with the travel planning regulations at 36 CFR part 212 subpart B, the resulting available public motorized access routes and areas would be designated on a Motor Vehicle Use Map and the prohibition at 36 CFR 261.13 would take effect. 36 CFR 261.13 would prohibit public use of a motor vehicle other than in accordance with those designations.

The proposed action would:

- Change 1.8 miles of currently closed yearlong routes or user-created routes to open with seasonal restrictions
- Change 5.1 miles of seasonally restricted routes to having a different seasonal restriction
- Change 6.7 miles of currently closed yearlong or user-created routes to being open yearlong
- Change 9.4 miles of seasonally restricted routes to become open yearlong
- Put 82.1 miles of currently open routes into storage (where routes are self-maintaining in non-use status for up to 20 years by re-contouring access points, and removing culverts)
- Change 2.5 miles of open seasonally or open yearlong routes to closed yearlong
- Close 7.9 miles (estimated) of user-created routes
- Create 41.4 miles of new motorized trails from currently seasonally restricted, open yearlong, user-created, and previously decommissioned routes
- Create 1.5 miles of single-track motorized trail from currently double-track motorized trail
- Construct 1.6 miles of new road
- Place 65.5 miles of currently closed routes into storage
- Obliterate 8.1 miles of closed yearlong, open yearlong, or user-created routes
- Create 5.5 miles of non-motorized trails from currently closed or user-created routes
- Create 1.5 miles of non-motorized trails from currently open or seasonally restricted routes
- Create 13.7 miles of non-motorized trails from currently single or double-track motorized routes
- Create 33 miles of mountain bike trails on National Forest (may also include non-motorized or motorized uses)

Alternative 3: This alternative is being developed in response to the 2010 scoping process in conjunction with continued collaboration with individuals, groups and organizations. It takes into account input regarding water quality and fish habitat, wildlife security and wildlife habitat improvements, and enhanced non-motorized recreation opportunities while still providing for a motorized recreational experience both on and off the trail.

Forest Plan Consistency: Preliminary analysis indicates this proposal may require a programmatic amendment to the HNF Plan for the project area regarding the standard for the hiding cover/open road density index. The proposed programmatic plan amendment would establish a new standard for elk security for those herd units within the project area. As a result, the Forest Plan standard would be amended specifically at this time and place as it relates to the Blackfoot travel planning Area. A separate decision would be signed for this programmatic plan amendment.

Responsible Official: The Responsible Official is Kevin T. Riordan, Helena National Forest Supervisor.

Nature of the Decision to Be Made: The responsible official will decide whether to implement the proposed action, no action, other alternatives, or any combination of the analyzed alternative components considered under analysis. He will consider the comments, disclosures of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision (ROD). Since this proposed travel plan includes the implementation plan, upon completion, the plan would be implemented as per the ROD.

Possible Permit/License Requirements: Any project activity that involves placement of fill in a jurisdictional body of water would require a Clean Water Act section 404 permit (US Army Corps of Engineers issuing agency) and a related Montana Stream Protection Act 124 permit (Montana Fish, Wildlife, and Parks issuing agency). Any construction of new road/trail could potentially require a National pollutant discharge elimination system (NPDES) permit, depending on the area of disturbance and proximity to a water body (Department of Environmental Quality issuing agency).

Scoping Process: This revised NOI guides the development of the EIS and Programmatic Forest Plan Amendment. Public comments received to date were taken into consideration in developing the above alternatives. These comments do not need to be resubmitted; the HNF requests that only new or additional comments be submitted if desired, specific to this new information. Public meetings will be held when the Draft EIS is released.

Dated: October 1, 2012.

Kevin T. Riordan,

Forest Supervisor.

[FR Doc. 2012–24880 Filed 10–9–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Membership of the Departmental Performance Review Board

AGENCY: Department of Commerce.

ACTION: Notice of Membership on the Departmental Performance Review Board.

SUMMARY: In accordance with 5 U.S.C., 4314 (c)(4), Department of Commerce (DOC) announces the appointment of persons to serve as members of the Departmental Performance Review Board (DPRB). The DPRB provides an objective peer review of the initial performance ratings, performance-based pay adjustments and bonus recommendations, higher-level review requests and other performance-related actions submitted by appointing authorities for Senior Executive Service (SES) members whom they directly supervise, and makes recommendations based upon its review. The term of the new members of the DPRB will expire December 31, 2014.

DATES: *Effective Date:* The effective date of service of appointees to the Departmental Performance Review Board is based upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Denise A. Yaag, Director, Office of Executive Resources, Office of Human Resources Management, Office of the Director, 14th and Constitution Avenue NW., Washington, DC 20230, (202) 482–3600.

SUPPLEMENTARY INFORMATION: The names and position titles of the members of the DPRB are set forth below by organization:

Department of Commerce

Departmental Performance Review Board Membership

2012–2014

Office of the Secretary

Ellen Herbst, Senior Advisor for Policy & Program Integration

Office of General Counsel

Michael A. Levitt, Assistant General Counsel for Legislation and Regulation
Barbara S. Fredericks, Assistant General Counsel for Administration
Geovette E. Washington, Deputy General Counsel

Office of the Chief Financial Officer and Assistant Secretary for Administration

Frederick E. Stephens, Deputy Assistant Secretary for Administration
William J. Fleming, Director for

Human Resources Management

Bureau of Industry and Security

Gay G. Shrum, Director of Administration Bureau of the Census
Nancy Potok, Deputy Director

Economics and Statistics Administration

Kenneth A. Arnold, Associate Under Secretary for Management
Joanne Buenzli Crane, Chief Financial Officer and Director for Administration

Economics and Development Administration

Thomas Guevara, Deputy Assistant Secretary for Regional Affairs
Sandra Walters, Chief Financial Officer and Director of Administration

International Trade Administration

Maureen R. Smith, Deputy Assistant Secretary for Manufacturing and Services
Rene A. Macklin, Chief Information Officer

Minority Business Development Agency

Alejandra Y. Castillo, Deputy Director
Edith J. McCloud, Associate Director for Management

National Oceanic and Atmospheric Administration

Edward C. Norton, Chief Administrative Officer
Joseph F. Klimavicz, Chief Information Officer and Director of High Performance Computing and Communications
Kathleen A. Kelly, Director, Office of Satellite Operations, NESDIS

National Technical Information Service

Bruce E. Borzino, Director, National Technical Information Service

National Telecommunications and Information Administration

Anna M. Gomez, Deputy Assistant Secretary for Communications and Information
Bernadette McGuire-Rivera, Associate Administrator for Telecommunications and Information Applications

National Institute of Standards and Technology

Richard F. Kayser, Jr., Chief Safety Officer

Dated: September 28, 2012.

Denise A. Yaag,

Director, Office of Executive Resources.

[FR Doc. 2012–24774 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

Membership of the Office of the Secretary Performance Review Board

AGENCY: Department of Commerce.

ACTION: Notice of Membership on the Office of the Secretary Performance Review Board.

SUMMARY: In accordance with 5 U.S.C., 4314(c)(4), Department of Commerce (DOC) announces the appointment of persons to serve as members of the Office of the Secretary (OS) Performance Review Board (PRB). The OS PRB is responsible for reviewing performance ratings, pay adjustments and bonuses of Senior Executive Service (SES) members. The term of the new members of the OS PRB will expire December 31, 2014.

DATES: *Effective Date:* The effective date of service of appointees to the Office of the Secretary Performance Review Board is upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Denise A. Yaag, Director, Office of Executive Resources, Office of Human Resources Management, Office of the Director, 14th and Constitution Avenue NW., Washington, DC 20230, (202) 482–3600.

SUPPLEMENTARY INFORMATION: The names, position titles, and type of appointment of the members of the OS/PRB are set forth below by organization:

Department of Commerce

Office of the Secretary

2012–2014

Performance Review Board Membership

Office of the Secretary

Ellen Herbst, Senior Advisor for Policy & Program Integration

Office of the Chief Financial Officer and Assistant Secretary for Administration

Frederick E. Stephens, Deputy Assistant Secretary for Administration
Suzan J. Aramaki, Director, Office of Civil Rights
Narahari Sastry, Deputy Assistant Secretary for Resources Management, Office of Security

National Oceanic and Atmospheric Administration

James M. Turner, Deputy Assistant Secretary for International Affairs

National Telecommunications and Information Administration

Leonard M. Bechtel, Chief Financial Officer and Director for Administration

Office of the General Counsel

Michael A. Levitt, Assistant General Counsel for Legislation and Regulation
Barbara S. Fredericks, Assistant General Counsel for Administration (Alternate)

Dated: September 28, 2012.

Denise A. Yaag,

Director, Office of Executive Resources.

[FR Doc. 2012–24775 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award Panel of Judges

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. app., notice is hereby given that the Panel of Judges of the Malcolm Baldrige National Quality Award will meet on Monday, November 5, 2012, 8:30 a.m. to 5:30 p.m., Tuesday, November 6, 2012, 8:30 a.m. to 5:30 p.m., Wednesday, November 7, 2012, 8:30 a.m. to 5:30 p.m., Thursday, November 8, 2012, 8:30 a.m. to 5:30 p.m., and Friday, November 9, 2012, 8:30 a.m. to 5:30 p.m. The Panel of Judges is composed of twelve members prominent in the fields of quality, innovation, and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of this meeting is to conduct final judging of the 2012 applicants. The applications under review by Judges contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene Monday, November 5, 2012, at 8:30 a.m. Eastern time and adjourn Friday, November 9, 2012, at 5:30 p.m. Eastern time. The entire meeting will be closed to the public.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, Gaithersburg, Maryland

20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on April 5, 2012, that the meeting of the Judges Panel may be closed in accordance with 5 U.S.C. 552b(c)(4) because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential and 5 U.S.C. 552b(c)(9)(B) because for a government agency the meetings are likely to disclose information that could significantly frustrate implementation of a proposed agency action. The meeting, which involves examination of Award applicant data from U.S. companies and other organizations and a discussion of these data as compared to the Award criteria in order to recommend the 2012 Baldrige Award recipients, may be closed to the public.

Dated: October 2, 2012.

Phillip Singerman,

Associate Director for Innovation & Industry Services.

[FR Doc. 2012–24915 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket Number 120928506–2506–01]

RIN 0648–XC276

Science Advisory Board Satellite Task Force; Availability of Draft Report and Request for Comments

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of availability and request for public comment.

SUMMARY: NOAA Office of Oceanic and Atmospheric Research (OAR) publishes this notice on behalf of the NOAA Science Advisory Board (SAB) to announce the availability of the draft report of the SAB Satellite Task Force (here called the SATTF) for public comment. The draft report of the SATTF has been prepared at NOAA's request made in September 2011. The NOAA National Environmental Satellite, Data, and Information Service (NESDIS) asked the SAB to review the existing and planned satellite programs and consider proposed alternatives to them. This report provides findings and recommendations from the SATTF on this topic.

DATES: Comments on this draft report must be received by 5 p.m. on November 9, 2012.

ADDRESSES: The Draft Report of the SATTF will be available on the NOAA Science Advisory Board Web site at *www.sab.noaa.gov/Reports/sattf.html.* The public is encouraged to submit comments electronically to *noaa.sab.comments2@noaa.gov.* For individuals who do not have access to the Internet, comments may be submitted in writing to: NOAA Science Advisory Board (SAB) c/o Dr. Cynthia Decker, 1315 East-West Highway-R/SAB, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, 1315 East-West Highway-R/SAB, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–734–1459) during normal business hours of 9 a.m. to 5 p.m. Eastern Time, Monday through Friday, or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

SUPPLEMENTARY INFORMATION: For more information on the charge of the SATTF, please visit the SAB Web site: *http://www.sab.noaa.gov/Working_Groups/current/SATTF%20TOR%20NOAA%20FINAL.pdf.*

The SAB is chartered under the Federal Advisory Committee Act and is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of NOAA on long- and short-term strategies for research, education, and application of science to resource management and environmental assessment and prediction.

NOAA welcomes all comments on the content of the draft report. We also request comments on any inconsistencies perceived within the report, and possible omissions of important topics or issues. This draft report is being issued for comment only and is not intended for interim use. For any shortcoming noted within the report, please propose specific remedies. Suggested changes will be incorporated where appropriate, and a final report will be posted on the SAB Web site prior to the November 2012 SAB meeting.

Please follow these instructions for preparing and submitting comments. Using the format guidance described below will facilitate the processing of comments and assure that all comments are appropriately considered. Overview comments should be provided first and should be numbered. Comments that are specific to particular pages, paragraphs or lines of the section should follow any overview comments and should identify the page and line numbers to which they apply. Please number each page of your comments.

Dated: October 2, 2012.

Andy Baldus,

Acting Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2012–24864 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC281

Endangered and Threatened Species; Initiation of 5-Year Review for Kemp's Ridley, Olive Ridley, Leatherback, and Hawksbill Sea Turtles

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

ACTION: Notice of initiation of 5-year review; request for information.

SUMMARY: NMFS announces 5-year reviews of Kemp's ridley (*Lepidochelys kempii*), olive ridley (*Lepidochelys olivacea*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles under the Endangered Species Act of 1973, as amended (ESA). A 5-year review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information on these sea turtles that has become available since that has become available since their last status review in 2007.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than December 10, 2012. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0196, by any of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0196 in the keyword search. Locate the document you wish to comment on

from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.

• *Mail or hand-delivery:* Angela Somma, National Marine Fisheries Service, Office of Protected Resources, Endangered Species Division, 1325 East West Highway, Silver Spring, MD 20910.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Larissa Plants, Office of Protected Resources, 301–427–8471.

SUPPLEMENTARY INFORMATION: Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Kemp's ridley, olive ridley, leatherback, and hawksbill sea turtles.

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of Kemp's ridley, olive ridley, leatherback, and hawksbill sea turtles. The 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and suitability; (3) conservation measures that have been implemented that benefit the species; (4) status and trends of threats; and (5) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List of Endangered and Threatened Species, and improved analytical methods.

Any new information will be considered during the 5-year review and will also be useful in evaluating the ongoing recovery program for these sea turtles. For example, information on conservation measures will assist in tracking implementation of recovery actions.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: October 3, 2012.

Heather Coll,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–24935 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Climate Assessment and Development Advisory Committee; Meeting

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule of a forthcoming meeting of the DoC NOAA National Climate Assessment and Development Advisory Committee (NCADAC).

DATES: *Time and Date:* The meeting will be held Wednesday, October 24, 2012 from 3–5 p.m. Eastern time.

PLACE: This meeting will be a conference call. Public access will be available at the office of the U.S. Global Change Research Program, Conference Room A, Suite 250, 1717 Pennsylvania Avenue NW., Washington, DC 20006. The public will not be able to dial into the call. Please check the National Climate Assessment Web site for additional information at *http://www.globalchange.gov/what-we-do/assessment.*

Status

The meeting will be open to public participation with a 10-minute public comment period from 4:45–4:55 p.m. The NCADAC expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of two minutes. Written comments should be received in the NCADAC DFO's office by Friday, October 19, 2012, to provide sufficient time for NCADAC review. Written comments received by the NCADAC DFO after Friday, October 19, 2012, will be distributed to the NCADAC, but may not be reviewed prior to the meeting date.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12 p.m. on Friday, October 19, 2012, to Dr. Cynthia Decker, Designated Federal Official, National Climate Assessment and Development Advisory Committee, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910, (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov.*)

Matters to be Considered

Please refer to the Web page *http://www.nesdis.noaa.gov/NCADAC/index.html* for the most up-to-date meeting agenda, when available.

SUPPLEMENTARY INFORMATION: The National Climate Assessment and Development Advisory Committee was established in December 2010. The committee's mission is to synthesize and summarize the science and information pertaining to current and future impacts of climate change upon the United States; and to provide advice and recommendations toward the development of an ongoing, sustainable national Assessment of global change impacts and adaptation and mitigation strategies for the Nation. Within the scope of its mission, the committee's specific objective is to produce a National Climate Assessment.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Designated Federal Official, National Climate Assessment and Development Advisory Committee, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910, (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov.*)

Dated: October 3, 2012.

Andy Baldus,

Acting Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2012–24866 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA969

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Abalone Research on San Nicolas Island, CA

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to Dr. Glenn R. VanBlaricom (VanBlaricom) to incidentally harass, by Level B harassment only, several species of marine mammal incidental to abalone research surveys on San Nicolas Island (SNI).

DATES: This authorization is effective for a period of 1 year from the date of issuance.

ADDRESSES: A copy of the IHA and related documents may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Associated documents prepared pursuant to the National Environmental Policy Act (NEPA) are also available at the same site. For those members of the public unable to view these documents on the internet, a copy may be obtained by writing to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 or telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**). Documents may also be viewed, by appointment only, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR part 216 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On October 26, 2011, NMFS received a complete application from VanBlaricom for the taking, by Level B harassment only, of marine mammals incidental to research surveys investigating the black abalone (*Haliotis cracherodii*). The first of five IHAs for similar research activities was issued to VanBlaricom on September 23, 2003 (68 FR 57427; October 3, 2003); the most recent of these was issued on January 18, 2008 (73 FR 4841; January 28, 2008), expiring January 17, 2009.

Authorization for incidental take, by Level B harassment only, was requested for small numbers of California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), and northern elephant seals (*Mirounga angustirostris*). The take is expected to occur incidental to research surveys performed for the purpose of assessing trends in black abalone populations over time in permanent study sites, and to conduct related research on the biology and ecology of black abalones relevant to current conservation concerns for the species, at San Nicolas Island (SNI), Ventura County, California. The specified activity consists of researchers on foot counting black abalones in plots along established transect lines at each of nine permanent study sites. Visits are generally made to each site on SNI up to four times per year in order to complete standardized annual black abalone surveys. VanBlaricom plans to conduct additional studies of growth and mortality rates, as well as genetic studies, necessitating as many as five visits per year to certain sites.

Description of the Specified Activity

Long-term study of abalone population trends began in 1979 due to interest in relocation of southern sea otters (*Enhydra lutris nereis*) to SNI. Following two seasons of reconnaissance surveys (1979–80), quantitative survey effort started in 1981, when nine permanent research sites in rocky intertidal habitats were chosen based on the presence of relatively dense abalone aggregations in order to monitor changes over time. From September 1979 through October 2011, VanBlaricom has made 137 separate field trips to SNI, with a total of 723 days of survey work. The specified activity and specific geographic region were described in greater detail in the **Federal Register** notice of proposed authorization (hereafter, the FR notice; 77 FR 12246; February 29, 2012) and will not be repeated here.

Research is conducted by counting black abalone in plots along permanent transect lines in rocky intertidal habitats at each of the nine study sites (see Figure 1 of VanBlaricom's application for a map of the study sites). Survey work is typically done by two field biologists working on foot (sites are

accessed by hiking to the shoreline from a vehicle parked inland), and is conducted only at low tide. Variation in surf height and sea conditions can influence the safety of field biologists as well as the quality of data collected, so specific timing of site visits is difficult to predict, although work is typically conducted between October and February. All work is done during daylight hours.

Marine mammals likely to be affected by abalone research activity are those that are hauled out on land near study sites. Past experience has shown that those animals disturbed by researchers may flush into the water, or move some distance away from the researchers without flushing into the water. Variable numbers of California sea lions, harbor seals, and elephant seals typically haul out near six of the nine study sites, and rarely near a seventh. Thus, of the nine study sites used for the abalone surveys, only two may currently be approached without the possibility of disturbing at least one species of pinniped. Breeding activity of the three relatively common pinniped species occurs at five of the nine sites. Periods of breeding and lactation for California sea lions and harbor seals occur from approximately February 15 through October 15, while elephant seal pups are born, nursed, and weaned from approximately January through March, with pups departing for foraging areas at sea at about 30 days post-weaning.

Annual black abalone surveys typically require that each of the nine permanent sites be visited between one and three times per year. As a result of additional studies planned for SNI, one site would be visited five times per year, and two additional sites would be visited four times each. Each visit to a given study site generally takes no more than 4 hours, after which the site is vacated and can be re-occupied by any marine mammals that were disturbed by the presence of researchers. One annual visit to each site is typically for maintenance purposes, is conducted in a month when pinnipeds are absent or are present in reduced numbers, and takes approximately 30 minutes.

Comments and Responses

We published a notice of receipt of the application and proposal for an IHA in the **Federal Register** on February 29, 2012 (77 FR 12246). We received comments from the Marine Mammal Commission, which recommended that we issue the requested incidental harassment authorization, subject to inclusion of the proposed mitigation and monitoring measures. All proposed mitigation and monitoring measures are included in the issued authorization.

Description of Marine Mammals in the Area of the Specified Activity

Many of the beaches in the Channel Islands provide resting, molting or breeding places for pinnipeds. On SNI, three pinniped species (northern elephant seal, harbor seal, and California sea lion) can be expected to occur on land in the vicinity of abalone research sites either regularly or in large numbers during certain times of the year. In addition to the three species commonly encountered at SNI, Guadalupe fur seals (*Arctocephalus townsendi*), listed as threatened under the ESA, and sea otters are known to occur. A single adult male Guadalupe fur seal was seen at one abalone research site on two occasions during the summer months in the mid-1980s. However, none have been seen since that time. Due to the rarity of Guadalupe fur seal sightings during abalone research at SNI, and because of mitigation measures described later in this document (see Mitigation section of this document), no take of Guadalupe fur seals is anticipated or authorized. While sea otters are not typically sighted during the abalone survey work, a 2011 population survey indicated that sea otters at SNI number approximately 50 individuals. However, sea otters are under the jurisdiction of the U.S. Fish and Wildlife Service and are not discussed further here.

The FR notice of proposed IHA (77 FR 12246; February 29, 2012) summarizes the population status and abundance of these species and provides detailed life history information. Further information on the biology and distribution of these species and others in the region can be found in the FR notice or in NMFS' Marine Mammal Stock Assessment Reports, which are available online at *http://www.nmfs.noaa.gov/pr/sars/*.

Potential Effects of the Specified Activity on Marine Mammals

Variable numbers of California sea lions, harbor seals, and elephant seals, depending on the time of year and the specific site, typically haul out near six of the nine study sites used for abalone research, and rarely near a seventh, with breeding activity occurring at five of the nine sites. Pinnipeds likely to be affected by abalone research activity are those that are hauled out on land at or near study sites.

Incidental harassment may result if hauled out animals are disturbed by the presence of abalone researchers. Although marine mammals are never deliberately approached by abalone survey personnel, approach may be unavoidable if pinnipeds are hauled out in the immediate vicinity of the permanent abalone study plots. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of researchers (e.g., turning the head, assuming a more upright posture) to flushing from the haul-out site into the water. We do not consider the alerting reactions to constitute behavioral harassment, or Level B harassment takes, but rather assume that pinnipeds that move greater than 1 m or change the speed or direction of their movement in response to the presence of researchers are behaviorally harassed, and thus subject to Level B harassment taking. Animals that respond to the presence of researchers by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

Even those reactions constituting Level B harassment would result at most in temporary, short-term disturbance. In any given study season (i.e., October to March), the researchers will make 4–6 visits to SNI, although each site is not visited during every visit to SNI. Visits to each site are thus separated by a matter of weeks, within the season, and are typically not visited at all during the summer months. Each site visit typically lasts no more than 4 hours. Therefore, disturbance of pinnipeds resulting from the presence of researchers lasts only for short periods of time and is separated by significant amounts of time in which no disturbance occurs. Because such disturbance is sporadic, rather than chronic, and of low intensity, individual marine mammals are unlikely to incur any detrimental impacts to vital rates or ability to forage and, thus, loss of fitness. Correspondingly, even local populations, much less the overall stocks of animals, are extremely unlikely to accrue any significantly detrimental impacts. The FR notice of proposed IHA (77 FR 12246; February 29, 2012) provides a more detailed description of the potential effects of these activities on marine mammals.

Anticipated Effects on Habitat

We do not anticipate any detrimental effects to marine mammal habitat as a result of the specified activities, beyond rendering the areas immediately around each of the nine study sites less desirable as haul-out sites for a matter of hours per year.

Summary of Previous Monitoring

VanBlaricom has complied with the mitigation and monitoring required under previous authorizations. During the course of these activities, VanBlaricom has not exceeded the take levels authorized. A full summary of previous monitoring may be found in the FR notice (77 FR 12246; February 29, 2012).

Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

Several mitigation measures will be implemented as part of the SNI abalone research activities in order to reduce the potential for harassment and the intensity of any harassment that does occur. The primary method of mitigating the risk of disturbance to pinnipeds, which will be in use at all times, is the selection of judicious routes of approach to abalone study sites, avoiding close contact with pinnipeds hauled out on shore, and the use of extreme caution upon any unavoidable approach. In no case will marine mammals be deliberately approached by abalone survey personnel, and in all cases every possible measure will be taken to select a pathway of approach to study sites that minimizes the number of marine mammals potentially harassed. Each visit to a given study site will last for approximately 4 hours, after which the site is vacated and can be re-occupied by any marine mammals that may have been disturbed by the presence of abalone researchers.

In addition, potential disturbances to females with dependent pups (in the cases of California sea lions and harbor seals) will be mitigated to the greatest extent practicable by avoiding visits to sites with pinnipeds present from March–September, during periods of breeding and lactation for those species. During this period, abalone research will either not occur or will be confined to those sites (2, 3, 4, and 9) where pinniped breeding and post-partum nursing does not occur. Limiting visits to the breeding and lactation sites to periods when these activities do not occur (October–February) will reduce the possibility of incidental harassment and disruption of reproductive behavior and the potential for injury, serious injury, or mortality of dependent California sea lion pups and harbor seal pups to near zero.

Northern elephant seal pups are present at four sites (5–8) during winter months. Risks of injury or mortality of elephant seal pups by mother/pup separation or trampling are limited to the period from January through March when pups are born, nursed, and weaned, ending about 30 days post-weaning when pups depart land for foraging areas at sea. However, elephant seals have a much higher tolerance of nearby human activity than sea lions or harbor seals. Also, elephant seal pupping typically occurs on the sandy beaches at SNI, approximately 50 m or more away from the abalone study sites. Possible take of northern elephant seal pups will be minimized, as for other species, by using a very careful approach to the study sites and avoiding the proximity of hauled-out seals and any seal pups during collection of abalone population data. As described previously, elephant seals show very low sensitivity to the presence of researchers, and no juvenile elephant seal was harassed during the December 2005–January 2009 period.

One individual Guadalupe fur seal was seen on two separate occasions during the summer months in the mid-1980s. Since the original sightings, no individuals of this species have been seen during abalone research. However, to ensure that Guadalupe fur seals are not affected by these activities, work will be immediately suspended if an individual is seen. Guadalupe fur seals are distinctive in appearance and behavior, and can be readily identified at a distance without any possibility of disturbance.

We have carefully evaluated the applicant's planned mitigation measures and considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation, including consideration of personnel safety and practicality of implementation.

Based on our evaluation of the mitigation measures, we have determined that these mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must, where applicable, set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

Currently, all biological research activities at SNI are subject to approval and regulation by the Environmental Planning and Management Department (EPMD), U.S. Navy (Navy). The Navy owns SNI and closely regulates all civilian access to, and activity on, the island, including biological research. Therefore, monitoring activities will be closely coordinated with Navy marine mammal biologists located on SNI. In addition, status and trends of pinniped aggregations at SNI are monitored by the NMFS Southwest Fisheries Science Center (SWFSC). Also, long-term studies of pinniped population dynamics, migratory and foraging behavior, and foraging ecology at SNI are conducted by staff at Hubbs-Sea World Research Institute (HSWRI).

Monitoring requirements in relation to VanBlaricom's abalone research surveys will include observations made by the applicant and his associates. Information recorded will include species counts (with numbers of pups/juveniles), numbers of observed disturbances, and descriptions of the disturbance behaviors during the abalone surveys. Observations of unusual behaviors, numbers, or distributions of pinnipeds on SNI will be reported to EPMD, SWFSC, and HSWRI so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to EPMD and SWFSC.

If at any time serious injury or mortality of the species for which take is authorized should occur, or if harassment of any other marine mammal occurs, and such action may be a result of the specified abalone research, VanBlaricom will suspend research activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

A draft final report must be submitted to NMFS Office of Protected Resources within 60 days after the conclusion of the field season. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. A final report must be submitted within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

Estimated Take by Incidental Harassment

With respect to the activities described here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. The planned mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by injury, serious injury, or mortality is considered remote. The distribution of pinnipeds hauled out on beaches is not uniform between sites or at different times of the year. The number of marine mammals disturbed may vary by month and location, and it is likely that only those animals hauled out closest to the actual survey transect plots contained within each research site would be disturbed by the presence of researchers and alter their behavior or attempt to move out of the way. VanBlaricom plans to visit site 8 five times, sites 5 and 7 four times each, and sites 1, 4, 6, and 9 two times each. No marine mammals have been observed at sites 2 and 3, and unlimited visits are allowed to those sites.

We consider an animal to have been harassed if it moved greater than 1 m in response to the researcher's presence or if the animal was already moving and changed direction and/or speed, or if the animal flushed into the water. Animals that become alert without such movements are not considered harassed. Estimated potential incidental take is based on the number of visits proposed for each site, the maximum number of animals observed at each site (October–February), and the observed susceptibility to harassment for each species (see FR notice; 77 FR 12246; February 29, 2012). We conservatively estimate that the maximum total possible numbers of individuals that may be incidentally harassed as a result of the planned activity would be 3,340 California sea lions, 212 harbor seals, and nine northern elephant seals (each constituting less than 2 percent of the relevant populations).

Negligible Impact and Small Numbers Analysis and Preliminary Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, we consider a variety of factors, including but not limited to: (1) The number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the take occurs.

Based on VanBlaricom's application and monitoring reports for previous field seasons, as well as the analysis contained herein, we have determined that the impact of the described abalone research at SNI will result, at most, in a temporary modification in behavior for small numbers of California sea lions, harbor seals, and northern elephant seals, in the form of movement away from the researchers and/or flushing from the beach. The numbers of authorized take for each of the three species are considered small relative to the relevant stocks or populations (each less than 2 percent). In addition, no take by injury, serious injury or mortality is anticipated or authorized, and take by harassment will be at the lowest level practicable due to incorporation of the mitigation and monitoring measures mentioned previously in this document. We have determined that the anticipated takes will not have an adverse on annual rates of recruitment or survival for these species or stocks, and therefore will have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

No subsistence uses of marine mammals are implicated by this action.

Endangered Species Act (ESA)

The described abalone research and issuance of the accompanying IHA will not affect ESA-listed marine mammal species or critical habitat under NMFS' jurisdiction.

National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, we prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from the issuance of IHAs to VanBlaricom. NMFS signed a Finding of No Significant Impact on November 21, 2005. We have reviewed the application and previous monitoring reports and determined that there are no substantial changes to the proposed action or new environmental impacts or concerns. Therefore, we have determined that a new or supplemental EA or Environmental Impact Statement is unnecessary. We received no public comments or new information in response to this notice that would affect that determination. The 2005 EA referenced above is available for review at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* We hereby reaffirm the 2005 FONSI.

Authorization

As a result of these determinations, we have issued an IHA to VanBlaricom to conduct the described activities for a period of one year, provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: October 3, 2012.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–24932 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2012–0039]

Grant of Interim Extension of the Term of U.S. Patent No. 5,454,779; ResQPump®/ResQPOD® ITD

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of Interim Patent Term Extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting interim extension under 35 U.S.C. 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 5,454,779.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755; or by email to *Mary.Till@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On September 6, 2012, the Regents of the University of California timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 5,454,779. The patent claims the medical device, ResQPump® in connection with the ResQPOD® ITD. The application indicates that a Premarket Approval Application, PMA No. P110024, for the medical device has been filed, and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because it is apparent that the regulatory review period will continue beyond the original expiration date of the patent, October 3, 2012, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 5,454,779 is granted for a period of one year from the original expiration date of the patent.

Dated: September 27, 2012.

Andrew Hirshfeld,

Deputy Commissioner for Patent Examination Policy, United States Patent and Trademark Office.

[FR Doc. 2012–24856 Filed 10–9–12; 8:45 am]

BILLING CODE 3510–16–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau), 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 information collections, as required by the Paperwork Reduction Act of 1995. The Bureau is soliciting comments concerning its proposed information collections titled, ''Generic Clearance for Collection of Information on Compliance Costs and Other Effects of Regulations.'' A proposed collection has been submitted to the Office of Management and Budget (OMB) for review and approval. A copy of the submission, including copies of a proposed collection and supporting documentation, may be obtained by contacting the agency contact listed below.

DATES: Written comments are encouraged and must be received on or before November 9, 2012 to be assured of consideration.

ADDRESSES: You may submit comments, identified by agency name and Generic Clearance for Collection of Information on Compliance Costs and Other Effects of Regulations, to:

- *Agency:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552; (202) 435–9011; and *CFPB_Public_PRA@cfpb.gov.*
- *OMB:* Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9011, or through the internet at *CFPB_Public_PRA@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for Collection of Information on Compliance Costs and Other Effects of Regulations.

OMB Control Number: 3170–XXXX.

Type of Review: New generic collection.

Abstract: Congress created the Bureau in July 2010 through the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, Title X (the Dodd-Frank Act), and the Bureau assumed certain rulemaking authorities in July 2011. The Dodd-Frank Act accords the Bureau responsibility for implementing, interpreting, and assuring compliance with various Federal consumer financial protection products and services. As outlined in the Dodd-Frank Act, among the Bureau's objectives is to identify regulations that are ''outdated, unnecessary, or unduly burdensome'' in order to reduce unwarranted regulatory burdens. In order to help support this objective, the Bureau must fully understand the implications of its regulations. Therefore, the Bureau seeks to collect qualitative information on compliance costs and other impacts of existing consumer financial regulations and any new potential rules the Bureau may propose.

The collections seek qualitative information on the impact of regulations on providers of consumer financial products and services (Providers). The Bureau seeks to better understand the compliance activities, burdens, and other economic costs and benefits associated with its potential rules and existing regulations. Additional input from Providers would give the Bureau a more nuanced understanding of costs, which it can use to provide solutions for reducing undue regulatory burden on Providers. To that end, the Bureau anticipates seeking to use the information from these collections to:

- Inform the Bureau's various rulemaking initiatives announced in the Bureau's regulatory agenda, most of which concern the mortgage industry; [1]

[1] Consumer Financial Protection Bureau, ''Fall 2011 Statement of Regulatory Priorities,'' (available at *http://www.consumerfinance.gov/regulations/fall-2011-statement-of-regulatory-priorities/*);

Continued

• Inform other rulemakings specifically required or authorized by the Dodd-Frank Act;

• Inform the Bureau's perspective on the appropriate approach to regulation of various industries in its jurisdiction;

• Supplement available information used for mandated analyses that the Bureau is required to perform for potential new rules, such as analyses required under section 1022 of the Act, the Regulatory Flexibility Act, and the Paperwork Reduction Act;

• Review impacts of the rules the Bureau inherited from other agencies;

• Perform reviews of significant new rules the Bureau adopts, as the Bureau is generally required to do within five years; and

• Develop new tools and solutions that can help Providers more easily implement and maintain compliance systems for consumer financial regulations.

These information collections will ask Providers of various sizes and mixes of business activity about their compliance systems and processes and how regulations and regulatory changes impact different aspects of their business operations. Collection methods may include structured interviews, focus groups, conference calls, and written questionnaires—delivered via email or administered through an online survey. In some cases, the Bureau may also conduct case studies to gather more in-depth and granular information from a targeted sample of institutions.

The information and data collected would aid the Bureau in determining what rules prove to be unduly burdensome on Providers and to identify the causes of such burden. In doing so, the Bureau would be better positioned to develop potential policy solutions that will reduce burden on Providers, without sacrificing the benefits of regulations on both consumers and Providers.

Affected Public: U.S. depository and non-depository financial institutions.

Estimated Number of Responses: Up to 2,750 respondents. This estimate includes 600 structured interview respondents, 75 focus group respondents, 2,000 written questionnaire respondents, and 75 case study respondents.

Estimated Time per Respondent: Structured interviews and focus groups may take up to 1.5 hours per session, with up to an additional 1.5 hours of preparation. Written questionnaires may take up to 1 hour per collection, with up to 1 hour of preparation. Case studies may take up to 16 hours for collections, with up to an additional 16 hours of preparation.

Estimated Total Annual Burden Hours: Up to 9,008 hours.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number.

The Bureau published a 60-day **Federal Register** notice on June 14, 2012 (77 FR 35658). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information shall have practical utility; (b) the accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: October 1, 2012.

Chris Willey,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2012–24635 Filed 10–9–12; 8:45 am]

BILLING CODE 4810–AM–P

Consumer Financial Protection Bureau, ''Spring 2012 Regulatory Agenda,'' (available at *http://files.consumerfinance.gov/f/201204_cfpb_semiannual-regulatory-agenda_2012-spring.pdf*).

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0045]

Federal Acquisition Regulation; Information Collection; Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of reinstatement request for an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning bid guarantees, performance and payment bonds, and alternative payment protections.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before December 10, 2012.

ADDRESSES: Submit comments identified by Information Collection 9000–0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0045, Bid, Performance, and Payment Bonds''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections'' on your attached document.

• *Fax:* 202–501–4067.

• *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections.

Instructions: Please submit comments only and cite Information Collection 9000–0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any

personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia Davis, Procurement Analyst, Contract Policy Division, GSA (202) 219–0202 or email *Cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Subparts 28.1 and 28.2; FAR clauses at 52.228–1, 52.228–2, 52.228–13, 52.228–15, 52.228–16; and associated FAR standard forms implement the statutory requirements of the Miller Act (40 U.S.C. 3131 et seq.), which requires performance and payment bonds for any construction contract exceeding $150,000, unless it is impracticable to require bonds for work performed in a foreign country, or it is otherwise authorized by law. In addition, the note to 40 U.S.C. 3132, entitled ''Alternatives to Payment Bonds Provided by the Federal Acquisition Regulation,'' is implemented in the FAR, which requires alternative payment protection for construction contracts that exceed $30,000 but do not exceed $150,000. Although not required by statute, under certain circumstances the FAR permits the Government to require bonds on other than construction contracts. The information collected under this clearance provides the Government with a form of security that the contractor will not withdraw a bid or assures that the contractor will perform its obligations under a contract.

B. Annual Reporting Burden

The estimated annual reporting burden is slightly increased since published in the **Federal Register** at 74 FR 46988, on September 14, 2009. Based on use of data, from the Federal Procurement Data System, for fiscal year 2011, an upward adjustment is made to the estimated annual reporting burden.

Respondents: 7,800.

Responses per Respondent: 7.6051.

Total Responses: 59,320.

Hours per Response: .42.

Total Burden Hours: 24,914.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0045, Bid Guarantees, Performance, and Payment Bonds, and Alternative Payment Protections, in all correspondence.

Dated: September 28, 2012.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–24852 Filed 10–9–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Advisory Committee Closed Meeting; U.S. Strategic Command Strategic Advisory Group

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C. App 2, Section 1), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.150, the Department of Defense announces the following closed meeting notice pertaining to the following federal advisory committee: U.S. Strategic Command Strategic Advisory Group.

DATES: November 15, 2012, from 8 a.m. to 5 p.m. and November 16, 2012, from 8 a.m. to 11:30 a.m.

ADDRESSES: Dougherty Conference Center, Building 432, 906 SAC Boulevard, Offutt AFB, Nebraska 68113.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Sudduth, Designated Federal Officer, (402) 294–4102, 901 SAC Boulevard, Suite 1F7, Offutt AFB, NE 68113–6030.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of the meeting is to provide advice on scientific, technical, intelligence, and policy-related issues to the Commander, U.S. Strategic Command, during the development of the Nation's strategic war plans.

Agenda: Topics include: Policy Issues, Space Operations, Nuclear Weapons Stockpile Assessment, Weapons of Mass Destruction, Intelligence Operations, Cyber Operations, Global Strike, Command and Control, Science and Technology, Missile Defense.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. Per delegated authority by the Chairman, Joint Chiefs of Staff, General C. Robert Kehler, Commander, U.S. Strategic Command, in consultation with his legal advisor, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Strategic Advisory Group at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Strategic Advisory Group's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.* Written statements that do not pertain to a scheduled meeting of the Strategic Advisory Group may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

Dated: October 4, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–24879 Filed 10–9–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Regents of the Uniformed Services University of the Health Sciences; Quarterly Meeting Notice

AGENCY: Uniformed Services University of the Health Sciences (USU), Department of Defense.

ACTION: Quarterly meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), this notice announces the following meeting of the Board of Regents of the Uniformed Services University of the Health Sciences.

DATES: Friday, November 9, 2012, from 8 a.m. to 11:30 a.m. (Open Session) and 11:30 a.m. to 12:30 p.m. (Closed Session).

ADDRESSES: Everett Alvarez Jr. Board of Regents Room (D3001), Uniformed Services University of the Health

Sciences, 4301 Jones Bridge Road, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Janet S. Taylor, Designated Federal Officer, 4301 Jones Bridge Road, Bethesda, Maryland 20814; telephone 301–295–3066. Ms. Taylor can also provide base access procedures.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: Meetings of the Board of Regents assure that USU operates in the best traditions of academia. An outside Board is necessary for institutional accreditation.

Agenda: The actions that will take place include the approval of minutes from the Board of Regents Meeting held August 14, 2012; recommendations regarding the approval of faculty appointments and promotions in the School of Medicine, Graduate School of Nursing, and the Postgraduate Dental College; and recommendations regarding the awarding of Master of Science in Nursing degrees as well as master's and doctoral degrees in the biomedical sciences and public health. The President, USU and representatives from the National Center for Disaster Medicine and Public Health will present reports and Regents will also receive information from both academic and administrative University officials. These actions are necessary for the University to pursue its mission, which is to provide outstanding health care practitioners and scientists to the uniformed services.

Meeting Accessibility: Pursuant to Federal statute and regulations (5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165) and the availability of space, most of the meeting is open to the public. Seating is on a first-come basis. Members of the public wishing to attend the meeting should contact Janet S. Taylor at the address and phone number in **FOR FURTHER INFORMATION CONTACT.** The closed portion of this meeting is authorized by 5 U.S.C. 552b(c)(6) as the subject matter involves personal and private observations.

Written Statements: Interested persons may submit a written statement for consideration by the Board of Regents. Individuals submitting a written statement must submit their statement to the Designated Federal Officer at the address listed in **FOR FURTHER INFORMATION CONTACT.** If such statement is not received at least 10 calendar days prior to the meeting, it may not be provided to or considered by the Board of Regents until its next open meeting. The Designated Federal Officer will review all timely submissions with the Board of Regents Chairman and ensure such submissions are provided to Board of Regents Members before the meeting. After reviewing the written comments, submitters may be invited to orally present their issues during the November 2012 meeting or at a future meeting.

Dated: October 3, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–24812 Filed 10–9–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2012–0020]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice To Alter a System of Records.

SUMMARY: The Department of the Air Force proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on November 13, 2012 unless comments are received which result in a contrary determination. Comments will be accepted on or before November 9, 2012.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Shedrick, Department of the Air Force Privacy Office, Air Force Privacy Act Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/CIO A6, 1800 Air Force Pentagon, Washington, DC 20330–1800, or by phone at (202) 404–6575.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in **FOR FURTHER INFORMATION CONTACT**.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 2, 2012, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 4, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F051 AFJA D

SYSTEM NAME:

Patent Infringement and Litigation Records (November 12, 2008, 73 FR 66875).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Air Force Legal Operations Agency, Commercial Law and Litigation Directorate, 1500 W. Perimeter Rd., Ste. 1780, Joint Base Andrews, MD 20742–0001.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Social Security Number (SSN), name, home address, phone numbers or other personal contact information that may be submitted by individual, letters; messages; forms; reports; contracts; bids; photographs; legal opinions; petitions; answers; discovery documents; memoranda; infringement studies; validity studies; procurement information; license agreements; other documents that may include contract determinations, witness statements, and engineering and technical reports.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 8037, Judge Advocate General, Deputy Judge Advocate General: Appointment and Duties; 10 U.S.C. 2386, Copyrights, Patents, Designs; 22 U.S.C. 2356, Foreign Assistance, acquisition; 28 U.S.C. 1498, Patent and

copyright cases; 35 U.S.C. 183, Right to compensation, Air Force Instruction 51–301, Intellectual Property—Patents, Patent Related Matters, Trademarks and Copyrights; and E.O. (SSN) 9397, as amended.''

* * * * *

STORAGE:

Delete entry and replace with ''Case files are maintained in file folders and electronic storage media.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Retained in office files for three years after end of year in which the case was closed, then retired to Washington National Records Center, Washington, DC 20409, for retention up to twenty five years thereafter, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Records in computer storage are destroyed by degaussing or overwriting.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Air Force Legal Operations Agency, Commercial Law and Litigation Directorate, 1500 W. Perimeter Rd., Ste. 1780, Joint Base Andrews, MD 20742–0001.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the Air Force Legal Operations Agency, Commercial Law and Litigation Directorate, 1500 W. Perimeter Rd., Ste. 1780, Joint Base Andrews, MD 20742–0001.''

For verification purposes, individuals should provide their full name, SSN, any details which may assist in location of records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking to access records about themselves contained in this system should address written requests to or visit the Air Force Legal Operations Agency, Commercial Law and Litigation Directorate, 1500 W. Perimeter Rd., Ste. 1780, Joint Base Andrews, MD 20742–0001.

For verification purposes, individuals should provide their full name, SSN, any details which may assist in location records, and their signature.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States:

'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'.''

* * * * *

[FR Doc. 2012–24898 Filed 10–9–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2012–0012]

Privacy Act of 1974; System of Records; Correction

AGENCY: Department of the Army, DoD.

ACTION: Notice to delete a System of Records; correction.

SUMMARY: On Wednesday, October 3, 2012 (77 FR 60412), the Department of Defense/Department of the Army (DOA) published a notice announcing its intent to delete a System of Records titled A0351 AMC, Student/Faculty Records: AMC Schools Systems, as the records had been transferred to the Training and Doctrine Command (TRADOC). After publication of the notice in the **Federal Register**, the DOA discovered that the records had not yet been transferred to TRADOC. Therefore, the DOA systems of records notice cannot be deleted at this time.

DATES: This correction is effective October 10, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, Jr., Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22315–3827 or by phone at 703–428–6185.

Dated: October 4, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2012–24885 Filed 10–9–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on October 17 and 18, 2012, at the headquarters of the IEA in Paris, France in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) on October 17; and in connection with a meeting of the SEQ on October 18.

DATES: October 17–18, 2012.

ADDRESSES: 9, rue de la Fédération, Paris, France.

FOR FURTHER INFORMATION CONTACT: Priya Aiyar, Deputy General Counsel for Environment and Nuclear Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–5072.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on October 17, 2012, beginning at 9:30 a.m., and continuing on October 18. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) which is scheduled to be held at the headquarters of the IEA on October 17 commencing at 9:30 a.m.; and a meeting of the SEQ, which is scheduled to be held at the headquarters of the IEA on October 18 commencing at 9:30 a.m. The IAB will also hold a preparatory meeting among company representatives at the same location at

8:30 a.m. on October 18. The agenda for this preparatory meeting is to review the agendas for the SEQ meeting on October 18.

The agenda of the joint session of the SEQ and the SOM on October 17 is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the June 2012 Joint Session
3. Reports on Recent Oil Market and Policy Developments in IEA Countries
4. The Currrent Oil Market Situation
5. The Program of Work and Budget 2013–2014
6. The Medium-Term Oil Market Report 2012
7. Request from the IEA Governing Board to Study Existing Instruments
8. Other Business
   —Tentative Schedule of Upcoming SEQ and SOM Meetings:
   —November 26–28, 2012 (ERE6)
   —March 26–27, 2013
   —June 24–26, 2013

The agenda of the SEQ meeting on October 18 is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 136th Meeting
3. Status of Compliance with IEP Stockholding Commitments
4. Emergency Response Review Program
   —Schedule of Emergency Response Reviews
   —Emergency Response Review of Germany
   —Questionnaire Response of Turkey
   —Questionnaire Response of Austria
   —Questionnaire Response of Japan
   —Questionnaire Response of the United States of America
5. Emergency Response Exercise 6
   —Update on preparations for ERE6
6. Emergency Response Measures
   —Costs and Benefits of Stockholding (Progress Report)
7. Electricity Security
   —Electricity Security Assessment Implementation
   —Report on India's 2012 Electricity Blackouts
8. Policy and Other Developments in Member Countries
   —Mid-Term Emergency Response Review of the United Kingdom
   —Mid-Term Emergency Response Review of the Czech Republic
9. Report from the Industry Advisory Board
10. Activities with International Organizations and Non-Member Countries
    —ASEAN (APSA)
    —Thailand
    —Chile
    —Estonia
    —China/India
11. Documents for Information
    —Emergency Reserve Situation of IEA Member Countries on July 1, 2012
    —Base Period Final Consumption: 3Q 2011–2Q 2012
    —Updated Emergency Contacts List
12. Other Business
    —Tentative Schedule of Next Meetings:
    —November 26–28, 2012 (ERE6)
    —March 26–27, 2013
    —June 24–26, 2013

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Issued in Washington, DC, October 4, 2012.

Priya Aiyar,

Deputy General Counsel for Environment and Nuclear Programs.

[FR Doc. 2012–24890 Filed 10–9–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13755–001]

FFP Missouri 12, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 13755–001.

c. *Date Filed:* August 17, 2012.

d. Submitted By: Free Flow Power Corporation on behalf of its subsidiary limited liability corporation, Missouri 12, LLC.

e. *Name of Project:* Allegheny Lock and Dam No. 2 Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corp of Engineer's Allegheny Lock & Dam No. 2 on the Allegheny River in Allegheny County, Pennsylvania. The project would occupy United States lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. Potential *Applicant Contact:* Ramya Swaminathan, Chief Operating Officer, Free Low Power, 239 Causeway Street, Boston, MA 02114–2130; (978) 283–2822; or email at *rswaminathan@free-flow-power.com.*

i. *FERC Contact:* Gaylord Hoisington at (202) 502–6032 or email at *gaylord.hoisington@ferc.gov.*

j. Free Flow Power filed its request to use the Traditional Licensing Process on August 17, 2012. Free Flow Power provided public notice of its request on August 13, 2012. In a letter dated September 18, 2012, Free Flow Power's request to use the Traditional Licensing Process was approved.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Pennsylvania State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Free Flow Power as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Free Flow Power filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24821 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2531–067]

FPL Energy Maine Hydro LLC; Notice of Intent To File License Application, Filing of Pre-Application Document (PAD), Commencement of Pre-Filing Process, and Scoping; Request for Comments On the PAD and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 2531–067.

c. *Dated Filed:* August 10, 2012.

d. *Submitted By:* FPL Energy Maine Hydro LLC (FPL Energy).

e. *Name of Project:* West Buxton Hydroelectric Project.

f. *Location:* On the Saco River in the towns of Buxton, Hollis, and Standish, within York and Cumberland Counties, Maine. The project does not occupy United States lands.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. Potential *Applicant Contact:* Frank Dunlap, Senior Environmental Specialist, NextEra Energy Resources, 26 Katherine Drive, Hallowell, ME 04347; (207) 629–1817; *frank.dunlap@nee.com.*

i. *FERC Contact:* Allan Creamer at (202) 502–8365, or email at *allan.creamer@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (1) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and (2) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating FPL Energy as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. FPL Energy filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission staff's Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, as well as study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission. Documents 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. 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.

All filings with the Commission must include on the first page, the project name (West Buxton Hydroelectric Project and number (P–2531–067), and bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by December 8, 2012.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: Friday, November 2, 2012.

Time: 9:00 a.m.

Location: NextEra Energy Resources Offices, 26 Katherine Drive, Hallowell, ME 04347.

Phone: (207) 629–1817.

Evening Scoping Meeting

Date: Thursday, November 1, 2012.

Time: 7:00 p.m.

Location: Buxton Town Office, 185 Portland Road, Buxton, ME.

Phone: (202) 929–5191.

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Environmental Site Review

The potential applicant and Commission staff will conduct an Environmental Site Review of the project on Thursday, November 1, 2012, starting at 2:00 p.m. All participants should meet at NextEra Energy's Saco River Maintenance Facility, located at 3 Company Road, Hollis, ME 04042. All participants are responsible for their own transportation. Anyone with questions about the site visit should contact Mr. Frank Dunlap of NextEra Energy at (207) 629–1817 on or before October 24, 2012.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer. The transcripts will be placed in the public record for the project.

Dated: October 1, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24820 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Attendance at NYISO Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and Commission staff may attend upcoming New York Independent System Operator, Inc. (NYISO) meetings, as well as other subcommittee or working group meetings that are not currently scheduled, but that are typically scheduled on short notice or meetings that are scheduled on short notice based on items arising from the agenda as posted on the NYISO Web site.[1] The Commission and Commission staff may attend the following meetings:

NYISO Business Issues Committee

- October 17, 2012 (Rensselaer, NY).
- November 14, 2012 (Rensselaer, NY).
- December 5, 2012 (Rensselaer, NY).
- January 16, 2013 (Rensselaer, NY).
- February 13, 2013 (Rensselaer, NY).
- March 13, 2013 (Rensselaer, NY).
- April 10, 2013 (Rensselaer, NY).
- May 8, 2013 (Rensselaer, NY).
- June 19, 2013 (Rensselaer, NY).
- July 17, 2013 (Rensselaer, NY).
- August 14, 2013 (Rensselaer, NY).
- September 18, 2013 (Rensselaer, NY).

NYISO Management Committee

- October 31, 2012 (Rensselaer, NY).
- November 28, 2012 (Rensselaer, NY).
- December 19, 2012 (Rensselaer, NY).
- January 30, 2013 (Rensselaer, NY).
- February 27, 2013 (Rensselaer, NY).
- March 27, 2013 (Rensselaer, NY).
- April 24, 2013 (Rensselaer, NY).
- May 29, 2013 (Rensselaer, NY).
- June 11, 2013 (Rensselaer, NY).
- July 31, 2013 (Rensselaer, NY).
- August 28, 2013 (Rensselaer, NY).
- September 25, 2013 (Rensselaer, NY).

NYISO ICAP Working Group

- October 23, 2012 (Rensselaer, NY).
- November 20, 2012 (Rensselaer, NY).
- December 11, 2012 (Rensselaer, NY).
- Various additional dates.

NYISO Operating Committee

- October 18, 2012 (Rensselaer, NY).
- November 15, 2012 (Rensselaer, NY).
- December 6, 2012 (Rensselaer, NY).
- January 17, 2013 (Rensselaer, NY).
- February 28, 2013 (Rensselaer, NY).
- March 14, 2013 (Rensselaer, NY).
- April 11, 2013 (Rensselaer, NY).
- May 9, 2013 (Rensselaer, NY).
- June 20, 2013 (Rensselaer, NY).
- July 18, 2013 (Rensselaer, NY).
- August 15, 2013 (Rensselaer, NY).
- September 19, 2013 (Rensselaer, NY).

Market Issues Working Group

- Various dates.

NYISO Transmission Planning Advisory Subcommittee

- Various dates.

NYISO Budget and Priorities Working Group

- Various dates.

NYISO Credit Policy Task Force

- Various dates.

NYISO Price Responsive Load Working Group

- Various dates.

NYISO Interconnection Issues Task Force

- Various dates.

For additional meeting information, see: *http://www.nyiso.com/public/committees/calendar/index.jsp.*

The discussions at each of the meetings described above may address matters at issue in pending proceedings before the Commission including the following:

Docket Nos. EL07–39 and ER08–695, New York Independent System Operator, Inc.

Docket No. EL08–70–000, *Canandaigua Power Partners,* LLC v. *New York Independent System Operator, Inc.*

Docket No. EL11–42, *Astoria Generating Company LLC* v. *New York Independent System Operator, Inc.*

Docket No. EL11–50, *Astoria Generating Company LLC* v. *New York Independent System Operator, Inc.*

Docket No. EL12–6, *Seneca Power Partners, L.P.* v. *New York Independent System Operator, Inc.*

Docket No. EL12–9, *Astoria Gas Turbine Power LLC* v. *New York Independent System Operator, Inc.*

[1] NYISO Subcommittees, Task Forces, and Working Groups of the three primary committees (Management, Business Issues, and Operating) meet on a variety of topics; they convene and dissolve on an as-needed basis. Therefore, staff may monitor different working groups as issues arise and according to postings on the NYISO Web site.

Docket No. EL12–56, *Energy Spectrum, Inc. and Riverbay Corporation* v. *New York Independent System Operator, Inc.*
Docket No. EL12–64, *Linden VFT, LLC* v. *New York Independent System Operator, Inc.*
Docket No. EL12–89, *Village of Port Jefferson* v. *New York Independent System Operator, Inc.*
Docket No. EL12–98, *Hudson Transmission Partners, LLC* v. *New York Independent System Operator, Inc.*
Docket No. ER01–3155, New York Independent System Operator, Inc.
Docket Nos. ER01–3001–021/ER03–647–012 and ER01–3001–022/ER03–647–013, New York Independent System Operator, Inc.
Docket No. ER04–449, New York Independent System Operator, Inc.
Docket No. ER04–230, New York Independent System Operator, Inc.
Docket No. ER06–291–001, New York Independent System Operator, Inc.
Docket No. ER04–230, New York Independent System Operator, Inc.
Docket No. ER04–230, New York Independent System Operator, Inc.
Docket No. ER04–230, New York Independent System Operator, Inc.
Docket No. ER06–1014, New York Independent System Operator, Inc.
Docket No. ER07–612, New York Independent System Operator, Inc.
Docket No. ER08–850, New York Independent System Operator, Inc.
Docket No. ER08–867, New York Independent System Operator, Inc.
Docket No. ER08–1281, New York Independent System Operator, Inc.
Docket No. ER09–1142, New York Independent System Operator, Inc.
Docket No. ER10–1359, TC Ravenswood, LLC
Docket No. ER10–2220, New York Independent System Operator, Inc.
Docket No. ER10–2371, New York Independent System Operator, Inc.
Docket No. ER10–3043, New York Independent System Operator, Inc.
Docket No. ER11–2547, New York Independent System Operator, Inc.
Docket No. ER11–1844, New York Independent System Operator, Inc.
Docket No. ER11–4338, New York Independent System Operator, Inc.
Docket No. ER12–360–001, New York Independent System Operator, Inc.
Docket No. ER12–718–001, New York Independent System Operator, Inc.
Docket Nos. ER12–1653–000, –001, New York Independent System Operator, Inc.
Docket No. ER12–2568, New York Independent System Operator, Inc.
Docket No. ER12–2622, New York Independent System Operator, Inc.
Docket No. RM04–7, Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities
Docket No. RM10–11, Integration of Variable Energy Resources
Docket No. RM10–15, Mandatory Reliability Standards for Interconnection Reliability Operating Limits
Docket No. RM10–16, System Restoration Reliability Standards
Docket No. RM10–23, Order No. 1000, Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities

The meetings are open to stakeholders. For more information, contact Travis Allen, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8796 or *Travis.Allen@ferc.gov.*

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24819 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–1–000.
Applicants: KO Transmission Company.
Description: Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5010.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–2–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Fuel Filing on 10–1–12 to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5033.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–3–000.
Applicants: Texas Gas Transmission, LLC.
Description: 2012 Fuel Tracker Filing to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5034.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–4–000.
Applicants: Trunkline Gas Company, LLC.
Description: Fuel Filing on 10–1–12 to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5035.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–5–000.
Applicants: Texas Gas Transmission, LLC.
Description: NAESB 587–V Compliance Filing (RM96–1–037) to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5036.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–6–000.
Applicants: Southwest Gas Storage Company.
Description: Fuel Filing on 10–1–2012 to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5037.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–7–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5038.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–8–000.
Applicants: Panther Interstate Pipeline Energy, LLC.
Description: Panther Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5039.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–9–000.
Applicants: Trunkline Gas Company, LLC.
Description: NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5041.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–10–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: NAESB 2.0 587–V compliance filing to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5042.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–11–000.
Applicants: Southwest Gas Storage Company.
Description: NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5043.
Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–12–000.
Applicants: Gulf South Pipeline Company, LP.

Description: Order 587–V compliance filing (NAESB V2.0) to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5044.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–13–000.
Applicants: Sea Robin Pipeline Company, LLC.
Description: NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5045.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–14–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5046.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–15–000.
Applicants: Trunkline LNG Company, LLC.
Description: NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5047.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–16–000.
Applicants: Petal Gas Storage, L.L.C.
Description: NAESB 2.0 compliance filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5048.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–17–000.
Applicants: High Island Offshore System, L.L.C.
Description: NAESB V 2.0 to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5057.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–18–000.
Applicants: Texas Eastern Transmission, LP.
Description: Philadelphia Lateral Negotiated Rates—CP11–508 Compliance to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5058.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–19–000.
Applicants: Carolina Gas Transmission Corporation.
Description: Order 587–V Compliance Filing (NAESB Vs. 2.0) to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5060.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–20–000.
Applicants: Texas Eastern Transmission, LP.
Description: TEAM 2012 Negotiated Rates Filing—CP11–67 Compliance to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5061.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–21–000.
Applicants: CenterPoint Energy Gas Transmission Comp.
Description: CEGT LLC—NAESB 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5062.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–24–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Order No. 587–V Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5066.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–25–000.
Applicants: Southern LNG Company, L.L.C.
Description: Order No. 587–V Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5068.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–26–000.
Applicants: NGO Transmission, Inc.
Description: NGO Transmission—Order No. 587–V Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5073.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–27–000.
Applicants: MarkWest New Mexico, L.L.C.
Description: MarkWest New Mexico—Order No. 587–V Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5080.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–28–000.
Applicants: Clear Creek Storage Company, L.L.C.
Description: NAESB 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5085.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–29–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: MarkWest Pioneer—Order No. 587–V Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5086.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–31–000.
Applicants: PostRock KPC Pipeline, LLC.
Description: PostRock KPC Pipeline, LLC—Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5088.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–32–000.
Applicants: American Midstream (Midla), LLC.
Description: American Midstream (Midla), LLC—Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5089.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–34–000.
Applicants: American Midstream (AlaTenn), LLC.
Description: American Midstream (AlaTenn), LLC—Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5092.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–35–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 10/01/12 FERC Order 587–V NAESB 2.0 to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5093.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–36–000.
Applicants: MoGas Pipeline LLC.
Description: MoGas NAESB Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5097.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–39–000.
Applicants: CenterPoint Energy—Mississippi River T.
Description: NAESB Compliance Filing (Version 2.0) to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5111.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–40–000.
Applicants: National Grid LNG, LP.
Description: Compliance Filing Adopting NAESB Version 2.0 to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5112.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–43–000.
Applicants: Bluewater Gas Storage, LLC.
Description: Bluewater Gas Storage NAESB Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5120.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–44–000.

Applicants: SG Resources Mississippi, L.L.C.
Description: SG Resources NAESB Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5121.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–45–000.
Applicants: Pine Prairie Energy Center, LLC.
Description: PPEC NAESB Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5122.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–46–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: ITS Fuel Compliance Filing to be effective 3/1/2013.
Filed Date: 10/1/12.
Accession Number: 20121001–5123.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–47–000.
Applicants: WBI Energy Transmission, Inc.
Description: NAESB 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5124.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–48–000.
Applicants: Texas Eastern Transmission, LP.
Description: Philadelphia Lateral Recourse Rate Filing—CP11–508 Compliance to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5126.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–49–000.
Applicants: Gulfstream Natural Gas System, L.L.C.
Description: Order 587–V Compliance Filing (NAESB Version 2.0 Standards) GNGS to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5168.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–50–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Order 587–V Compliance Filing (NAESB Version 2.0 Standards) MNUS to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5170.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–51–000.
Applicants: Southeast Supply Header, LLC.
Description: Order 587–V Compliance Filing (NAESB Version 2.0 Standards) SESH to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5171.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–52–000.
Applicants: Cimarron River Pipeline, LLC.
Description: NAESB Version 2.0 Compliance Filing (Order 587–V) to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5172.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–53–000.
Applicants: Dauphin Island Gathering Partners.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5173.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–54–000.
Applicants: Northern Border Pipeline Company.
Description: NAESB 2.0 to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5176.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–55–000.
Applicants: Elba Express Company, L.L.C.
Description: Order No. 587–V Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5177.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–56–000.
Applicants: Bear Creek Storage Company, L.L.C.
Description: Bear Creek Baseline Tariff Filing to be effective 10/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5185.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–57–000.
Applicants: WBI Energy Transmission, Inc.
Description: Non-conforming Service Agreements—Basin Electric to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5191.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–58–000.
Applicants: Great Lakes Gas Transmission Limited Par.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5209.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–59–000.
Applicants: Tuscarora Gas Transmission Company.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5231.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–60–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: NAESB V2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5250.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–61–000.
Applicants: Dominion Transmission, Inc.
Description: DTI—NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5259.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–62–000.
Applicants: Dominion Cove Point LNG, LP.
Description: DCP—NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5261.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–63–000.
Applicants: WBI Energy Transmission, Inc.
Description: Annual Penalty Revenue Credits Report of WBI Energy Transmission, Inc.
Filed Date: 10/1/12.
Accession Number: 20121001–5264.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–64–000.
Applicants: Dominion South Pipeline Company, LP.
Description: DSP—NAESB Version 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5265.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–65–000.
Applicants: Destin Pipeline Company, L.L.C.
Description: NAESB Version 2.0 Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5291.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–66–000.
Applicants: Millennium Pipeline Company, LLC.
Description: Negotiated Rate Service Agreement—Amendment 27912 to be effective 10/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5296.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–67–000.
Applicants: WBI Energy Transmission, Inc.
Description: Non-conforming Service Agreements—Revised NSP to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5297.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–68–000.

Applicants: Millennium Pipeline Company, LLC.

Description: Negotiated Rate Service Agreements Contract 132614, 132617, 134761 to be effective 11/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5300.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–69–000.

Applicants: Cheyenne Plains Gas Pipeline Company, L.

Description: NAESB 2.0 Filing to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5317.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–70–000.

Applicants: Alliance Pipeline L.P.

Description: NAESB Version 2.0 Final to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5326.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–71–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: NAESB 2.0 Filing to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5333.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–72–000.

Applicants: Carolina Gas Transmission Corporation.

Description: 2012 FRQ & TDA Filing to be effective 11/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5336.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–73–000.

Applicants: Stingray Pipeline Company, L.L.C.

Description: NAESB Compliance Version 2.0, Order 587–V to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5341.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–75–000.

Applicants: Northern Natural Gas Company.

Description: 20121001 NAESB Version 2.0 Refile to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5352.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–76–000.

Applicants: Garden Banks Gas Pipeline, LLC.

Description: Order 587–V Compliance Filing to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5354.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–77–000.

Applicants: Cheniere Creole Trail Pipeline, L.P.

Description: Creole Trail NAESB Compliance Filing to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5356.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–78–000.

Applicants: Mississippi Canyon Gas Pipeline, L.L.C.

Description: Compliance with Order 587–V to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5361.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–79–000.

Applicants: Crossroads Pipeline Company.

Description: NAESB 2.0 to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5365.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–80–000.

Applicants: Nautilus Pipeline Company, L.L.C.

Description: Compliance with Order 587–V to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5367.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–81–000.

Applicants: Caledonia Energy Partners, L.L.C.

Description: Caledonia Change to FERC Gas Tariff to Comply with FERC Order No. 587–V to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5368.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–82–000.

Applicants: Texas Eastern Transmission, LP.

Description: PSEG ERT 11–01–2012 Negotiated Rate to be effective 11/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5369.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–83–000.

Applicants: Columbia Gulf Transmission Company.

Description: NAESB 2.0 to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5374.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–84–000.

Applicants: Ruby Pipeline, L.L.C.

Description: NAESB 2.0 Filing to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5376.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–85–000.

Applicants: White River Hub, LLC.

Description: NAESB 2.0 Order 587–V to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5380.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–86–000.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: NAESB 2.0 to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5382.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–87–000.

Applicants: Questar Southern Trails Pipeline Company.

Description: Order 587–V NAESB 2.0 to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5394.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–88–000.

Applicants: Central Kentucky Transmission Company.

Description: NAESB 2.0 to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5401.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–89–000.

Applicants: Questar Overthrust Pipeline Company.

Description: Order 587–V NAESB 2.0 to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5408.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–90–000.

Applicants: Mojave Pipeline Company, LLC.

Description: NAESB 2.0 Filing to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5413.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–91–000.

Applicants: Questar Pipeline Company.

Description: NAESB 2.0 Order 587–V Compliance to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5416.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–92–000.

Applicants: Hardy Storage Company, LLC.

Description: NAESB 2.0 to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5421.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP13–93–000.

Applicants: Freebird Gas Storage, L.L.C.

Description: Freebird Change to FERC Gas Tariff to Comply with FERC Order No. 587–V to be effective 12/1/2012.

Filed Date: 10/1/12.
Accession Number: 20121001–5423.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–94–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Fuel Tracker Filing October 1, 2012 to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5427.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–95–000.
Applicants: Wyoming Interstate Company, L.L.C..
Description: NAESB 2.0 Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5435.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–96–000.
Applicants: Millennium Pipeline Company, LLC.
Description: NAESB 2.0 to be effective 12/1/2012
Filed Date: 10/1/12.
Accession Number: 20121001–5437.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–97–000.
Applicants: National Fuel Gas Supply Corporation.
Description: NAESB v2.0 (Order 587–V) to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5439.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–98–000.
Applicants: East Cheyenne Gas Storage, LLC.
Description: ECGS NAESB Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5440.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–99–000.
Applicants: Empire Pipeline, Inc.
Description: Empire NAESB v.2.0 to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5441.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–100–000.
Applicants: Golden Pass Pipeline LLC.
Description: Order 587–V NAESB 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5442.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–101–000.
Applicants: Portland Natural Gas Transmission System.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5443.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–102–000.
Applicants: Northwest Pipeline GP.
Description: NWP NAESB 2.0 Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5445.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–103–000.
Applicants: Gas Transmission Northwest LLC.
Description: El Paso Ruby Holding Agmt to be effective 11/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5446.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–104–000.
Applicants: El Paso Natural Gas Company, L.L.C..
Description: NAESB 2.0 Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5447.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–105–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: WIC Gas Quality—CO_2 Settlement Compliance Filing to be effective 3/1/2013.
Filed Date: 10/1/12.
Accession Number: 20121001–5448.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–106–000.
Applicants: Young Gas Storage Company, Ltd..
Description: NAESB 2.0 Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5450.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–107–000.
Applicants: Bison Pipeline LLC.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5451.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–108–000.
Applicants: TransColorado Gas Transmission Company L.
Description: Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5452.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–109–000.
Applicants: ANR Pipeline Company.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5453.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–110–000.
Applicants: Discovery Gas Transmission LLC.
Description: NAESB V2.0—1st Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5454.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–111–000.
Applicants: North Baja Pipeline, LLC.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5455.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–112–000.
Applicants: Blue Lake Gas Storage Company.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5456.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–113–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Volume No. 2—MGI Non-Conforming Agreement to be effective 10/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5457.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–114–000.
Applicants: Gas Transmission Northwest LLC.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5458.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–115–000.
Applicants: ANR Storage Company.
Description: NAESB 2.0 Compliance to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5460.
Comments Due: 5 p.m. ET 10/15/12.
Docket Numbers: RP13–116–000.
Applicants: MIGC LLC.
Description: NAESB V2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 10/1/12.
Accession Number: 20121001–5463.
Comments Due: 5 p.m. ET 10/15/12.

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: RP10–960–005.
Applicants: B–R Pipeline Company.
Description: Order 587–V NAESB Version 2.0 Compliance Filing to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5285.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP11–65–001.

Applicants: Trans-Union Interstate Pipeline, L.P.

Description: Order 587–V Compliance Filing to Modify Tariff to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5174.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP12–1048–001.

Applicants: Viking Gas Transmission Company.

Description: Conforming Backhaul Agreement—GPNG.

Filed Date: 10/1/12.

Accession Number: 20121001–5444.

Comments Due: 5 p.m. ET 10/15/12.

Docket Numbers: RP12–259–001.

Applicants: USG Pipeline Company, LLC.

Description: Order 587–V NAESB Version 2.0 Compliance Filing to be effective 12/1/2012.

Filed Date: 10/1/12.

Accession Number: 20121001–5362.

Comments Due: 5 p.m. ET 10/15/12.

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 5:00 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: October 2, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24851 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–110–000]

Arkansas Electric Cooperative Corporation; Mississippi Delta Energy Agency; Clarksdale Public Utilities Commission; Public Service Commission of Yazoo City; South Mississippi Electric Power Association v. Entergy Services, Inc.; Notice of Complaint

Take notice that on September 28, 2012, pursuant to sections 206 and 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and 385.212 and sections 206, 306, and 309 of the Federal Power Act (FPA), 16 USC 824(e) and § 825(h), Arkansas Electric Cooperative Corporation, Mississippi Delta Energy Agency, and its two members, Clarksdale Public Utilities Commission of the City of Clarksdale, Mississippi, and Public Service Commission of Yazoo City of the City of Yazoo City, Mississippi, and South Mississippi Electric Power Association (Complainants) filed a formal complaint against Entergy Services, Inc. (Respondent) alleging that, Respondent has not properly implemented the rate redetermination (Update) procedures contained in its Open Access Transmission Tariff (OATT), and, therefore, the 2012 Update filed in Docket No. ER12–1895–000 would impose rates and charges that are contrary to the OATT on file with the Commission and are unjust and unreasonable in violation of the FPA.

The Complainants certify that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 18, 2012.

Dated: October 1, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24830 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–9–000]

American Transmission Company LLC v. Midwest Independent Transmission System Operator, Inc., Xcel Energy Services Inc,. Northern States Power Company, a Wisconsin Corporation, Northern States Power Company, a Minnesota Corporation; Notice of Complaint

Take notice that on October 1, 2012, American Transmission Company LLC (ATC), by its corporate manager, ATC Management Inc. (collectively, ATCLLC) (Complainant) filed a formal complaint against Midwest Independent Transmission System Operator, Inc. (MISO) and Xcel Energy Services Inc., on behalf of its operating company affiliates Northern States Power Company Wisconsin (NSPW) and Northern States Power Company Minnesota (NSPM) (collectively, Xcel Energy) (Respondent), pursuant to section 306 of the Federal Power Act, 16 U.S.C. 825e (2006), and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 (2012). The complaint alleges that, pursuant to relevant provisions of the MISO Tariff and the MISO Transmission Owners Agreement, ATC and the Xcel Energy

(on behalf of NSPM and NSPW) are each entitled to own and construct fifty percent of the 345 kV facilities from the Twin Cities area in Minnesota to the Madison area in Wisconsin.

ATCLLC certifies that copies of the complaint were served on the contacts for Xcel Energy and the state public utility commissions of Minnesota and Wisconsin.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24907 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–10–000]

North American Natural Resources, Inc. Complainant v. PJM Interconnection, L.L.C, American Electric Power Service Corporation, Indiana Michigan Power Company, Respondents; Notice of Complaint

Take notice that on October 2, 2012, pursuant to section 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and sections 206 of the Federal Power Act (FPA), 16 U.S.C. 824(e), North American Natural Resource, Inc. (NSANR) filed a formal complaint against PJM Interconnection, L.L.C, (PJM), American Electric Power Service Corporation (AEP), and AEP's wholly owned subsidiary Indiana Michigan Power Company (I & M) alleging, that contrary to sections 1.7A.02, 1.3A, 1.17A, 1.26, 212.4, 217.3, 205, 206 and 217 of PJM's Open Access Transmission Tariff (OATT), the Interconnection Construction Service Agreement (ICSA) between AEP and NANR, the Interconnection Service Agreement (ISA) between AEP and NANR, the Commission's Order No. 2003 [1] and other applicable FERC decisions, and the FPA, AEP and PJM have refused to properly categorize $2,269,012 of the interconnection costs as Network Upgrades and allocate those costs to AEP and its customers, failed to update AEP's Regional Transmission System Expansion (RTEP) and wrongfully foisted the costs of the Network Upgrades onto NANR by mischaracterizing them as Attachment Facilities, and wrongfully utilized the interconnection of Project T–111 as a means of upgrading its inadequate 69 kV line, which had previously not included adequate re-closing or breaker failure protection, and replacing obsolete relays and other equipment.

NANR certifies that copies of the complaint were served on the contacts for PJM, AEP, and I & M as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24908 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

[1] *Standardization of Generator Interconnection Agreements and Procedure,* Order No. 2003, 104 FERC ¶ 61,103 (2003).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–101–000]

New York Association of Public Power v. Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.; Notice of Amendment to Complaint

Take notice that on October 2, 2012, New York Association of Public Power (Complainant) amended its September 11, 2012 filed Complaint against Niagara Mohawk Power Corporation and New York Independent System Operator, Inc. (Respondents) submitting workpapers of Jonathan A. Lesser, the witness for the Complainant, in support of the Complaint.

The Complainant certifies that copies were served on the parties shown on the official service listed compiled by the Commission.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 15, 2012.

Dated: October 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24906 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–8–000]

Prairie Power, Inc.; Notice of Filing

Take notice that on October 1, 2012, Prairie Power, Inc. filed its Revised and Superseding Proposed Revenue Requirement for reactive supply service under Midwest Independent Transmission System Operator, Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24828 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–7–000]

Indiana Municipal Power Agency; Notice of Filing

Take notice that on October 1, 2012, Indiana Municipal Power Agency filed its Revised and Superseding Proposed Revenue Requirement for reactive supply service under Midwest Independent Transmission System Operator, Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24826 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–6–000]

Missouri Joint Municipal Electric Utility Commission; Notice of Filing

Take notice that on October 1, 2012, Missouri Joint Municipal Electric Utility Commission filed its Revised and Superseding Proposed Revenue Requirement for reactive supply service under Midwest Independent Transmission System Operator, Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of

the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24825 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–5–000]

Northern Illinois Municipal Power; Notice of Filing

October 2, 2012.

Take notice that on October 1, 2012, Northern Illinois Municipal Power filed its Revised and Superseding Proposed Revenue Requirement for reactive supply service under Midwest Independent Transmission System Operator, Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24824 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–4–000]

Southern Illinois Power Cooperative; Notice of Filing

Take notice that on October 1, 2012, Southern Illinois Power Cooperative filed its Revised and Superseding Proposed Revenue Requirement for reactive supply service under Midwest Independent Transmission System Operator, Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24823 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–3–000]

Kentucky Municipal Power Agency; Notice of Filing

Take notice that on October 1, 2012, Kentucky Municipal Power Agency filed its Revised and Superseding Proposed Revenue Requirement for reactive supply service under Midwest Independent Transmission System Operator, Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24822 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–2–000]

Illinois Electric Agency; Notice of Filing

Take notice that on October 1, 2012, Illinois Electric Agency filed its Revised and Superseding Proposed Revenue Requirement for reactive supply service under Midwest Independent Transmission System Operator, Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24833 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13–1–000]

American Municipal Power, Inc.; Notice of Filing

Take notice that on October 1, 2012, American Municipal Power, Inc. filed its Revised and Superseding Proposed Revenue Requirement for reactive supply service under Midwest Independent Transmission System Operator, Inc. Tariff Schedule 2.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2012.

Dated: October 2, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24831 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ID–7007–000; ID–7008–000]

Wheatley, Michael I.; Garrison, Drummond E.; Notice of Filing

Take notice that on September 28, 2012, Michael I. Wheatley and Drummond E. Garrison submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, and 18 CFR 45.8 of Federal Energy Regulatory Commission's (Commission) Regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 19, 2012.

Dated: October 1, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24818 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–109–000]

Avalon Wind, LLC; Avalon Wind 2, LLC; Catalina Solar, LLC; Catalina Solar 2, LLC; Pacific Wind Lessee, LLC; Pacific Wind 2, LLC; Valentine Solar, LLC; EDF Renewable Development, Inc.; Notice of Petition for Declaratory Order

Take notice that on September 27, 2012, Avalon Wind, LLC, Avalon Wind 2, LLC, Catalina Solar, LLC, Catalina Solar 2, LLC, Pacific Wind Lessee, LLC, Pacific Wind 2, LLC, Valentine Solar, LLC, and EDF Renewable Development, Inc., (collectively, Petitioners) pursuant to section 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure 18 CFR 385.207, filed a petition for declaratory order requesting the Commission to confirm their priority to firm transmission rights to the capacity of the Antelope Valley line, which encompasses two generation-tie lines to be constructed and jointly owned by the Petitioners to connect the full planned capacity of the Petitioners' wind and solar generation projects to the integrated transmission grid.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 29, 2012.

Dated: October 1, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24829 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14425–000]

Liberty University, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On June 15, 2012, Liberty University, Inc., filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Scott's Mill Hydropower Project (project) to be located on the James River, in the City of Lynchburg, Virginia. The proposed project would be located in Amherst and Bedford Counties, Virginia. The project would not occupy any federal land. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) The existing 15-foot-high, 925-foot-long Scott's Mill dam, impounding a 316-acre reservoir with a normal maximum water surface elevation of 511 feet mean sea level; (2) a new powerhouse containing four generating units with a total installed capacity of 4.8 megawatts; (3) a new 500-foot-long underground transmission line; and (4) appurtenant facilities. The project would have an estimated annual generation of 10,500 megawatt-hours, and would be sold to a local utility.

Applicant Contact: Mr. Lee Beaumont, Assistant to the Chancellor, Liberty University, 1971 University Blvd., Lynchburg, Virginia 24502; phone: (434) 592–3315; email: *lbeaumont@liberty.edu.*

FERC Contact: Tim Looney; phone: (202) 502–6096.

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.[1] Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and

[1] The Commission is issuing a second notice for this project because some municipalities may not have been notified by the first notice issued on July 9, 2012.

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–14425) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: October 1, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24817 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14415–000]

Natural Currents Energy Services, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On May 22, 2012, Natural Currents Energy Services, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Alexandria Bay Hydroelectric Project, which would be located on the St. Lawrence River in Jefferson County, New York. The proposed project would not use a dam or impoundment. 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) Installation of 50 NC Sea Dragon tidal turbines at a rated capacity of 100 kilowatts, (2) an estimated 2.5 kilometers in length of additional transmission infrastructure, and (3) appurtenant facilities. Initial estimated production would be a minimum of 17,520 megawatt hours per year with the installation of 50 units.

Applicant Contact: Mr. Roger Bason, Natural Currents Energy Services, LLC, 24 Roxanne Boulevard, Highland, New York 12561, (845) 691–4009.

FERC Contact: Woohee Choi (202) 502–6336.

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.[1] 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 the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14415) in the docket number field to access the document. For assistance, contact FERC Online Support.

[1] The Commission is issuing a second notice for this project because some municipalities may not have been notified by the first notice issued on August 13, 2012.

Dated: October 3, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24905 Filed 10–9–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9522–9]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or email at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses To Agency Clearance Requests

OMB Approvals

EPA ICR Number 2071.05; NESHAP for Printing, Coating and Dyeing of Fabrics and Other Textiles; 40 CFR part 63 subparts A and OOOO; was approved on 09/12/2012; OMB Number 2060–0522; expires on 09/30/2015; Approved without change.

EPA ICR Number 0997.10; NSPS for Petroleum Dry Cleaners; 40 CFR part 60 subparts A and JJJ; was approved on 09/14/2012; OMB Number 2060–0079; expires on 09/30/2015; Approved without change.

EPA ICR Number 2040.05; NESHAP for Refractory Products Manufacturing; 40 CFR part 63 subparts A and SSSSS; was approved on 09/14/2012; OMB Number 2060–0515; expires on 09/30/2015; Approved without change.

EPA ICR Number 1541.10; NESHAP for Benzene Waste Operations; 40 CFR part 61 subparts A and FF; was approved on 09/14/2012; OMB Number 2060–0183; expires on 09/30/2015; Approved without change.

EPA ICR Number 1100.14; NESHAP for Radionuclides; 40 CFR part 61

subparts B, K, R and W; was approved on 09/14/2012; OMB Number 2060–0191; expires on 09/30/2015; Approved without change.

EPA ICR Number 1745.07; Criteria for Classification of Solid Waste Disposal Facilities and Practices (Renewal); 40 CFR part 257 subpart B; was approved on 09/14/2012; OMB Number 2050–0154; expires on 09/30/2015; Approved without change.

EPA ICR Number 1775.06; Hazardous Remediation Waste Management Requirements (HWIR-Media) (Renewal); 40 CFR parts 264 and 270; and 40 CFR 271.21; was approved on 09/14/2012; OMB Number 2050–0161; expires on 09/30/2015; Approved without change.

EPA ICR Number 2042.05; NESHAP for Semiconductor Manufacturing; 40 CFR part 63 subparts A and BBBBB; was approved on 09/14/2012; OMB Number 2060–0519; expires on 09/30/2015; Approved without change.

EPA ICR Number 1951.05; NESHAP for Paper and Other Web Coating; 40 CFR part 63 subparts A and JJJJ; was approved on 09/14/2012; OMB Number 2060–0511; expires on 09/30/2015; Approved without change.

EPA ICR Number 1976.05; NESHAP for Reinforced Plastic Composites Production; 40 CFR part 63 subparts A and WWWW; was approved on 09/14/2012; OMB Number 2060–0509; expires on 09/30/2015; Approved without change.

EPA ICR Number 1954.05; NESHAP for the Surface Coating of Large Household and Commercial Appliances; 40 CFR part 63 subparts A and NNNN; was approved on 09/14/2012; OMB Number 2060–0457; expires on 09/30/2015; Approved without change.

EPA ICR Number 1938.05; NESHAP for Municipal Solid Waste Landfills; 40 CFR part 63 subparts A and AAAA; was approved on 09/14/2012; OMB Number 2060–0505; expires on 09/30/2015; Approved without change.

EPA ICR Number 1891.06; NESHAP for Publicly-Owned Treatment Works; 40 CFR part 63 subparts A and VVV; was approved on 09/14/2012; OMB Number 2060–0428; expires on 09/30/2015; Approved without change.

EPA ICR Number 2027.05; NESHAP for Flexible Polyurethane Foam Fabrication; 40 CFR part 63 subparts A and MMMMM; was approved on 09/15/2012; OMB Number 2060–0516; expires on 09/30/2015; Approved without change.

EPA ICR Number 2437.02; NSPS for Oil and Natural Gas Production and Natural Gas Transmission and Distribution; 40 CFR part 60 subparts A and OOOO; was approved on 09/17/2012; OMB Number 2060–0673; expires on 09/30/2015; Approved without change.

EPA ICR Number 2439.02; NESHAP for Natural Gas Transmission and Storage; 40 CFR part 63 subparts A and HHH; was approved on 09/17/2012; OMB Number 2060–0670; expires on 09/30/2015; Approved without change.

EPA ICR Number 2438.02; NSPS for Onshore Natural Gas Processing Plants; 40 CFR part 60 subparts A, KKK and LLL; was approved on 09/17/2012; OMB Number 2060–0672; expires on 09/30/2015; Approved without change.

EPA ICR Number 2373.05; Mandatory Reporting of Greenhouse Gases: Additional Sources of Fluorinated Greenhouse Gases, Subparts I, L, DD, SS, and QQ (Technical Correction); 40 CFR part 98, subparts I, L, DD, QQ and SS; was approved on 09/18/2012; OMB Number 2060–0650; expires on 12/31/2013; Approved with change.

EPA ICR Number 1852.05; Exclusion Determinations for New Nonroad Spark-ignited Engines, New Nonroad Compression-ignited Engines, and New On-road Heavy Duty Engines (Renewal); 40 CFR part 85 subpart R; 40 CFR part 89 subpart J; 40 CFR part 90 subpart J; 40 CFR part 91 subpart K; 40 CFR part 92 subpart J; 40 CFR part 94 subpart J; 40 40 CFR 1039.5, 1045.5, 1048.5, 1051.5 and 1054.5; CFR part 1068 subpart C; was approved on 09/20/2012; OMB Number 2060–0395; expires on 09/30/2015; Approved without change.

EPA ICR Number 2440.02; NESHAP for Oil and Natural Gas Production; 40 CFR part 63 subparts A and HH; was approved on 09/21/2012; OMB Number 2060–0671; expires on 09/30/2015; Approved without change.

EPA ICR Number 2029.05; NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing; 40 CFR part 63 subparts A and LLLLL; was approved on 09/21/2012; OMB Number 2060–0520; expires on 09/30/2015; Approved without change.

EPA ICR Number 1995.05; NESHAP for Coke Oven Pushing, Quenching, and Battery Stacks; 40 CFR part 63 subparts A and CCCCC; was approved on 09/21/2012; OMB Number 2060–0521; expires on 09/30/2015; Approved without change.

EPA ICR Number 1736.06; EPA's Natural Gas STAR Program (Renewal); was approved on 09/21/2012; OMB Number 2060–0328; expires on 09/30/2015; Approved without change.

Comment Filed

EPA ICR Number 2465.01; NSPS for Greenhouse Gas Emissions for New Electric Utility Generating Units; in 40 CFR part 60 subparts A and TTTT; OMB filed comment on 09/04/2012.

EPA ICR Number 1801.10; NESHAP for the Portland Cement Manufacturing Industry; in 40 CFR part 63 subparts A and LLL; OMB filed comment on 09/21/2012.

John Moses,

Director, Collections Strategies Division.

[FR Doc. 2012–24863 Filed 10–9–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2006–0361; FRL–9522–6]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Trade Secret Claims for Emergency Planning and Community Right-to-Know Act (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Trade Secret Claims for Emergency Planning and Community Right-to-Know Act'' (EPA ICR No. 1428.09, OMB Control No. 2050–0078) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through November 30, 2012. Public comments were previously requested via the **Federal Register** (77 FR 34037) on June 8, 2012 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 9, 2012.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–SFUND–2006–0361, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8019; fax number: (202) 564–2620; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This information collection request pertains to trade secrecy claims submitted under Section 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). EPCRA contains provisions requiring facilities to report to State and local authorities, and EPA, the presence of extremely hazardous substances (Section 302), inventory of hazardous chemicals (Sections 311 and 312) and manufacture, process and use of toxic chemicals (Section 313). Section 322 of EPCRA allows a facility to withhold the specific chemical identity from these EPCRA reports if the facility asserts a claim of trade secrecy for that chemical identity. The provisions in Section 322 establish the requirements and procedures that facilities must follow to request trade secrecy treatment of chemical identities, as well as the procedures for submitting public petitions to the Agency for review of the ''sufficiency'' of trade secrecy claims.

Trade secrecy protection is provided for specific chemical identities contained in reports submitted under each of the following: (1) Section 303 (d)(2)—Facility notification of changes that have or are about to occur, (2) Section 303 (d)(3)—Local Emergency Planning Committee (LEPC) requests for facility information to develop or implement emergency plans, (3) Section 311—Material Safety Data Sheets (MSDSs) submitted by facilities, or lists of those chemicals submitted in place of the MSDSs, (4) Section 312—Emergency and hazardous chemical inventory forms (Tier I and Tier II), and (5) Section 313 Toxic chemical release inventory form.

Form Numbers: EPA Form 9510–1, Substantiation to Accompany Claims of Trade Secrecy under the Emergency Planning and Community Right-to-Know Act of 1986.

Respondents/affected entities: Entities potentially affected by this action are manufacturers or non-manufacturers subject to reporting under Sections 303, 311/312 or 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 332.

Frequency of response: Annual.

Total estimated burden: 3154 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $206,155 (per year). No capital and operation and maintenance costs are associated with any requirements in this ICR.

Changes in the Estimates: There is an increase of 48 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to the slight increase in the number of facilities that EPA estimates for the next three years covered by this ICR. The annual number of claims estimated in the previous ICR was 327, while this ICR estimates 332 claims.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–24865 Filed 10–9–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2012–0709; FRL–9363–2]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (*i.e.*, a chemical not on the TSCA Chemical Substances Inventory (TSCA Inventory)) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. In addition under TSCA, EPA is required to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document, which covers the period from August 20, 2012 to September 7, 2012, and provides the required notice and status report, consists of the PMNs and TMEs, both pending or expired, and the NOC to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before November 9, 2012.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0709, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the online instructions for submitting comments.

Mail: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Hand Delivery: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: EPA's policy is that all comments received will be included in the docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through

regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Bernice Mudd, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8951; fax number: (202) 564–8955; email address: *mudd.bernice@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA taking this action?

EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.* Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals. This status report, which covers the period from August 20, 2012 to September 7, 2012, consists of the PMNs and TMEs, both pending or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Reports

In Table I. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I—32 PMNS RECEIVED FROM 8/20/12 TO 9/07/12

Case No.	Received date	Projected notice end date	Manufacturer/importer	Use	Chemical
P–12–0513	08/17/2012	11/14/2012	CBI	(G) Component in coatings.	(G) Aromatic dicarboxylic acid, polymer with dialkyl alkanediol, alkyl-(hydroxyalkyl)-alkanediol, dicarboxylic acid, alkanediol, hydroxy-[(oxoalkyl)oxy]alkyl ester.
P–12–0514	08/17/2012	11/14/2012	CBI	(G) An open, non-dispersive use.	(G) Hydrogenated modified rosin.
P–12–0515	08/17/2012	11/14/2012	CBI	(G) Electrographic toner.	(G) Polycarboxylic acids, polymer with polyols.
P–12–0516	08/17/2012	11/14/2012	CBI	(G) Additive for coating paint (open, non-dispersive).	(G) Poly(oxyalkylene) alkylamine.
P–12–0517	08/17/2012	11/14/2012	CBI	(G) Electrographic toner.	(G) Polycarboxylic acids, polymer with polyols.
P–12–0518	08/20/2012	11/17/2012	CBI	(S) Catalyst for polymerisation of polyester based polymers from diacids and diols.	(G) Aqueous solution of titanium hydroxy acid complex.
P–12–0519	08/21/2012	11/18/2012	CBI	(S) Binder for metal coatings.	(G) Alkyd polyester polyurethane.
P–12–0520	08/21/2012	11/18/2012	CBI	(G) Chemical component for fuel additives.	(G) Fatty acids amine salt.
P–12–0521	08/23/2012	11/20/2012	CBI	(G) Pigment dispersant.	(G) 2-Propenoic acid, 2-methyl-, alkyl esters, polymer with substituted methacrylate, substituted methacrylate, me methacrylate and polyalkene glycol alkyl ether, tert-bu 2-ethylhexaneperoxoate-initiated.
P–12–0522	08/22/2012	11/19/2012	CBI	(G) Catalytic production of industrial intermediates.	(G) Hydrolase enzymes.
P–12–0523	08/23/2012	11/20/2012	Carboline Company	(G) Coating component.	(G) Alkyl ketimines; polymeric ketimines.
P–12–0524	08/24/2012	11/21/2012	CBI	(G) Pigment dispersant.	(G) Vegetable-oil fatty acids, conjugated, polymers with ethylene glycol, substituted propanoic acid, anhydride, polyethylene glycol and trimethylolpropane, compounds with substituted alkanol.
P–12–0525	08/23/2012	11/20/2012	CBI	(G) Binder for fibers	(G) Vinyl acrylic copolymer.
P–12–0526	08/24/2012	11/21/2012	CBI	(G) Coating additive	(G) Siloxanes and silicones, substituted alkyl group-terminated ethers with polyethylene glycol and polyethylene glycol anhydride ester.
P–12–0527	08/27/2012	11/24/2012	CBI	(G) Pigment dispersant.	(G) Fatty acids of natural oils, conjugated, maleated.
P–12–0528	08/27/2012	11/24/2012	Cytec Industries, Inc.	(S) Coating resin	(G) Substituted heteromonocycle, polymer with substituted alkane and substituted alkanediol, alkanoic acid substituted ester and substituted hetermonocyle homopolymer.
P–12–0529	08/27/2012	11/24/2012	CBI	(G) An open, non-dispersive use.	(G) Hydrogenated modified rosin.
P–12–0530	08/28/2012	11/25/2012	Chryso, Inc.	(G) Cement additive. Degree of containment: open, non-dispersive use.	(G) Amine acetate.
P–12–0531	08/28/2012	11/25/2012	CBI	(G) Pigment dispersant.	(G) Polyphosphoric acids, reaction products with substituted heteromonocyclic polymer alkyl ester.
P–12–0532	08/28/2012	11/25/2012	CBI	(G) Additive in electronic products.	(G) Tetrasubstituted dioxadithiane.
P–12–0533	08/28/2012	11/25/2012	CBI	(G) Lubricant additive	(G) Aromatic amido-amine-modified aliphatic hydrocarbons resin.
P–12–0534	08/28/2012	11/25/2012	CBI	(G) Lubricant additive	(G) Aromatic amido-amine-modified aliphatic hydrocarbons resin.
P–12–0535	08/29/2012	11/26/2012	CBI	(G) Resin for waterborne exterior coatings.	(G) Acrylic waterborne emulsion.
P–12–0536	08/30/2012	11/27/2012	CBI	(G) Synergist for ultra violet curable coatings.	(G) Ultra violet curable acrylated amine synergist.

TABLE I—32 PMNS RECEIVED FROM 8/20/12 TO 9/07/12—Continued

Case No.	Received date	Projected notice end date	Manufacturer/importer	Use	Chemical
P–12–0537	08/31/2012	11/28/2012	CBI	(G) Polymer for use in hard surface cleaners.	(G) Hexanedioic acid, polymer with -[2,2-bis(hydroxy,alkyl)butyl]-.omega.-methoxypoly(oxy-1,2-ethanediyl), 2,2-alkyl-1,3-propanediol, 1,2-ethanediamine, 1,6-hexanediol, 3-hydroxy-2-(hydroxyalkyl)-2-alkylpropanoic acid and 1,1'-methylenebis[4-isocyanatocyclohexane], compd. with N,N-diethylethanamine.
P–12–0538	08/31/2012	11/28/2012	Henkel Corporation	(S) Component in cyanoacrylate adhesive formulation.	(G) 2-Octyl cyanoacrylate.
P–12–0539	09/01/2012	11/29/2012	Trinity Manufacturing, Inc..	(S) Flame retardant in rubber products; extreme pressure additive in lubricants.	(S) Alkanes, $C_{19–28}$-branched and linear, chloro.
P–12–0540	09/04/2012	12/02/2012	Dow Chemical Company.	(G) Component of electrical laminate.	(G) Styrenic anhydride maleimide terpolymer.
P–12–0541	08/29/2012	11/26/2012	Songwon International Americas, Inc.	(G) Primary antioxidant for organic polymer.	(S) Benzenepropanoic acid, 3,5-bis(1,1-dimethylethyl)-4-hydroxy-, 2-ethylhexyl ester.
P–12–0542	09/04/2012	12/02/2012	CBI	(G) Pigment dispersant.	(G) Polyethyleneglycol modified polyacrylate block polypyridine polymer, hydrolyzed, sodium salts.
P–12–0543	08/30/2012	11/27/2012	Shell chemical LP	(S) Chemical intermediate.	(S) Alkenes, $C_{23–33}$, branched and linear.
P–12–0544	09/06/2012	12/04/2012	CBI	(G) Additive	(G) Alkenoic acid, polymers with acrylate and polyalkandiol alkane ether alkyl alkenoate and polyalkene alkandiol alkane ether alkenoic alkyl ethers.

In Table II. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received by EPA during this period: The EPA case number assigned to the TME, the date the TME was received by EPA, the projected end date for EPA's review of the TME, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the TME, and the chemical identity.

TABLE II—2 TMES RECEIVED FROM 08/20/12 TO 09/07/12

Case No.	Received date	Projected notice end date	Manufacturer/importer	Use	Chemical
T–12–0013	08/27/2012	10/10/2012	Cytec Industries, Inc	(S) Coating resin	(G) Substituted heteromonocycle, polymer with substituted alkane and substituted alkanediol, alkanoic acid substituted ester and substituted hetermonocyle homopolymer.
T–12–0014	08/27/2012	10/10/2012	Cytec Industries, Inc	(S) Coating resin	(G) Substituted heteromonocycle, polymer with substituted alkane and substituted alkanediol, alkanoic acid substituted ester and substituted hetermonocyle homopolymer.

In Table III. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE III—27 NOCS RECEIVED FROM 08/20/12 TO 09/07/12

Case No.	Received date	Commencement notice end date	Chemical
J–12–0005	08/27/2012	08/24/2012	(G) Sacchromyces cerevisiae modified.
P–05–0770	08/21/2012	08/14/2012	(G) Blocked aromatic isocyanate.
P–07–0121	08/21/2012	08/13/2012	(G) Epoxy-amine adduct salt.
P–07–0427	08/20/2012	08/10/2012	(G) MDI polyester prepolymer.
P–09–0479	09/05/2012	07/24/2012	(S) Benzoic acid, 4-(dimethylamino)-, 1,1′-[(methylimino)di-2, 1-ethanedyl] ester.

TABLE III—27 NOCS RECEIVED FROM 08/20/12 TO 09/07/12—Continued

Case No.	Received date	Commencement notice end date	Chemical
P–09–0480	09/05/2012	07/24/2012	(S) 1-Propanone, 1,1′(oxydi-4, 1-phenylene) bis [2-hydroxy-2-methyl-.
P–10–0347	08/27/2012	08/15/2012	(G) Modified polyester.
P–11–0203	08/24/2012	08/01/2012	(G) Perfluoroalkylethyl methacrylate copolymer, salt.
P–11–0277	08/28/2012	08/11/2012	(G) Modified acrylonitrile, butadiene polymer, hydrogenated.
P–11–0364	08/29/2012	08/22/2012	(G) Alkanediol, polymer with 1,1′-methylenebis[4-isocyanatocyclohexane].
P–11–0565	08/31/2012	02/29/2012	(S) D-Glucopyranose, oligomeric, C10-16-alkyl glycosides, 3-[(carboxymethyl)bis(2-hydroxyethyl)ammonio]-2-hydroxypropyl ethers, inner salts, polymers with 1,3-dichloro-2-propanol.
P–11–0568	09/04/2012	08/09/2012	(G) Fluoropolymer.
P–12–0131	08/24/2012	08/09/2012	(S) 3-Hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid polymer with hydrazine, .alpha.-hydro-.omega.-hydroxypoly(oxy-1,4-butanediyl) and 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane compound with N,N-diethylethanamine.
P–12–0154	08/17/2012	08/14/2012	(G) Alkyl alkaacrylate, polymer with alkyl acrylate, alkyl acrylate.
P–12–0236	08/21/2012	08/20/2012	(G) Polyester amine adduct.
P–12–0265	08/21/2012	08/13/2012	(G) Carbamic acid, *N*-[1-methyl-1-[3-(1-methylethenyl)phenyl]ethyl]-, substituted ester.
P–12–0266	09/06/2012	08/28/2012	(G) 2-Propenoic acid, telomer with substituted *N*-[1-methyl-1-[3-(1-methylethenyl)phenyl]ethyl]carbamate and 2-propanol, peroxydisulfuric acid ([(HO)s(O)2]2O2)sodium salt (1:2)-initiated.
P–12–0267	09/06/2012	08/29/2012	(G) 2-Propenoic acid, telomer with substituted *N*-[1-methyl-1-[3-(1-methylethenyl)phenyl]ethyl]carbamate and 2-propanol, sodium salt, peroxydisulfuric acid ([(HO)s(O)2]2O2) sodium salt (1:2)-initiated.
P–12–0268	09/06/2012	08/29/2012	(G) 2-Propenoic acid, telomer with substituted *N*-[1-methyl-1-[3-(1-methylethenyl)phenyl]ethyl]carbamate and 2-propanol, ammonium salt, peroxydisulfuric acid ([(HO)s(O)2]2O2) sodium salt (1:2)-initiated.
P–12–0269	09/06/2012	08/29/2012	(G) 2-Propenoic acid, telomer with substituted *N*-[1-methyl-1-[3-(1-methylethenyl)phenyl]ethyl]carbamate and 2-propanol, potassium salt, peroxydisulfuric acid ([(HO)s(O)2]2O2) sodium salt (1:2)-initiated.
P–12–0270	09/06/2012	08/29/2012	(G) 2-Propenoic acid, telomer with substituted *N*-[1-methyl-1-[3-(1-methylethenyl)phenyl]ethyl]carbamate and 3-mercaptopropanoic acid, 1.1-diemethylpropyl 2-ethylhexaneperoxoate-initiated.
P–12–0330	09/06/2012	08/31/2012	(G) Acrylic waterborne emulsion.
P–12–0331	08/17/2012	08/16/2012	(G) 2-Propenoic acid, 2-methyl-, substituted dialkylamino ethyl ester, polymer with butyl 2-propenoate, compounds with polyether hydrogen maleate alkyl ethers.
P–12–0336	08/23/2012	08/16/2012	(G) 2,5-Furandione, polymer with substituted methylbenzene and substituted polyether, bu alc.- and substituted alkyl acrylate-1*H*-heteromonocyclic reaction products- and substituted heteromonocyclic cetyl ester- and substituted heteromonocyclic polymer cetyl ester blocked .
P–12–0337	08/17/2012	08/16/2012	(G) Acid anhydride, polymer with aromatic isocyanate and polyalkyleneglycol, alkanol and hydroxyalkyl acrylate diazole reaction products and lactone homopolymer alkyl ester-blocked.
P–12–0345	08/23/2012	08/20/2012	(G) Ultra violet-curable urethane acrylate.
P–12–0362	08/31/2012	08/20/2012	(G) Unsaturated urethane methacrylate.

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Imports, Notice of commencement, Premanufacturer, Reporting and recordkeeping requirements, Test marketing exemptions.

Dated: September 24, 2012.

Chandler Sirmons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2012–24772 Filed 10–9–12; 8:45 am]

BILLING CODE 6560–50–P 14

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0879; FRL–9363–5]

Exposure Modeling Public Meeting; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: An Exposure Modeling Public Meeting (EMPM) will be held for one day on October 30, 2012. This notice announces the location and time for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on October 30, 2012 from 9 a.m. to 4 p.m. Requests to participate in the meeting must be received on or *before* October 22, 2012.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Office of Pesticide Programs (OPP), One Potomac Yard (South Building), Fourth Floor Conference Center (S–4370–80), 2777 S. Crystal Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Katrina White, Environmental Fate and Effects Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–4536; fax number:

(703) 305–6309; email address: *white.katrina@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Agriculture, forestry, fishing and hunting (NAICS code 11).
- Utilities (NAICS code 22).
- Professional, scientific and technical (NAICS code 54).

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0879, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

On a biannual interval, an Exposure Modeling Public Meeting will be held for presentation and discussion of current issues related to modeling pesticide fate, transport, and exposure of risk assessment in a regulatory context. Meeting dates and abstract requests are announced through the ''empmlist'' forum on the LYRIS list server at *https://lists.epa.gov/read/all_forums.*

III. How can I request to participate in this meeting?

You may submit a request to participate in this meeting to the person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI. Requests to participate in the meeting, identified by docket ID number EPA–HQ–OPP–2009–0879, must be received on or before October 22, 2012.

IV. Tentative Topics for the Meeting

1. Development and evaluation of the Pesticide Root Zone Model (PRZM) for estimating pesticide concentrations in groundwater.

2. Status of Drinking Water intake Watershed PCA development exercise.

3. RQ calculations for specific listed terrestrial mammals, birds, reptiles, and amphibians: Model Parameterization and Knowledge base Development.

4. Standard Operating Procedure for calculating degradation kinetics.

5. Aquatic exposure modeling using field studies.

6. Rice modeling: A case study.

7. Evaluation of a simplified SWAT model approach for prediction of insecticide concentrations in a small watershed in northwestern Oregon.

8. iSTREEM®—a Web-based river chemical concentration estimation model.

9. Development and validation of an approach for modeling pyrethroid insecticides in wastewater treatment processes.

10. Monitoring and modeling the fate and transport of a pesticide metabolite from groundwater recharge to drinking water.

11. Comparison of multiple source ground spray deposition curves for determination of buffers in simulation models.

12. Using groundwater monitoring data to evaluate the Tier 1 use of drinking water exposure models.

List of Subjects

Environmental protection, Buffers, Degradation kinetics, Drinking water, Exposure assessment, Groundwater, Pesticide exposure model, PRZM, Pyrethroids, Rice model, SWAT, Watershed PCA.

Dated: September 25, 2012.

Donald J. Brady,

Director, Environmental Fate and Effects Division, Office of Pesticide Programs.

[FR Doc. 2012–24893 Filed 10–9–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9739–7]

Notice of Proposed NPDES General Permit; Final NPDES General Permit for New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Director of the Water Quality Protection Division, EPA Region 6 today provides notice that the National Pollutant Discharge Elimination System (NPDES) General Permit No. GMG290000 for existing and new sources and new dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located in and discharging to the Outer Continental Shelf offshore of Louisiana and Texas was reissued on September 28, 2012, with an effective date of October 1, 2012. The discharge of produced water to that portion of the Outer Continental Shelf from Offshore Subcategory facilities located in the territorial seas of Louisiana and Texas is also authorized by this permit.

DATES: This permit was issued September 28, 2012, is effective on October 1, 2012, and expires September 30, 2017. This effective date is necessary to provide dischargers with the immediate opportunity to comply with Clean Water Act requirements in light of the expiration of the 2007 permit on September 30, 2012. In accordance with 40 CFR part 23, this permit shall be considered issued for the purpose of judicial review on October 24, 2012. Under section 509(b) of the CWA, judicial review of this general permit can be held by filing a petition for review in the United States Court of Appeals within 120 days after the permit is considered issued for judicial review. Under section 509(b)(2) of the CWA, the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings. Deadlines for submittal of notices of intent are provided in Part I.A.2 of the permit.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Smith, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Telephone: (214) 655–2145. Email address: *smith.diane@epa.gov.*

SUPPLEMENTARY INFORMATION: The draft permit was proposed in the **Federal Register** on March 7, 2012. EPA Region 6 has considered all comments received and makes several significant changes as listed below. A copy of the Region's responses to comments and the final permit may be obtained from the EPA Region 6 internet site: *http://www.epa.gov/region6/water/npdes/genpermit/index.htm.*

1. Change the deadline to file eNOIs for continuous coverage from 90 days from the effective date of the permit to January 31, 2013;

2. Permit coverage and compliance start when an eNOI is filed;

3. Add characterization study for water-based drilling mud;

4. Allow discharges of hydrate control fluids without toxicity testing requirements for discharges containing methanol up to 20 bbl/event and ethylene glycol up to 200 bbl/event;

5. Change the toxicity re-testing criteria to include increase of critical dilution;

6. Add chlorine and bromine to the exclusion list of toxicity test for chemically treated miscellaneous discharges;

7. Delete the provision of ''Alternative to Visual or Remote Inspection'' but allow ''other monitoring device'' to be used for visual or remote inspection;

8. Exclude routine biocide treatment of cooling water intake structure velocity monitoring system from conditions established for chemically treated seawater;

9. Change the entrainment monitoring frequency from monthly to quarterly after the 24-month study period;

10. Change the first NetDMR reporting period end date from October 31, 2013, to December 31, 2013, and change the annual reporting period from October through September to January through December;

11. Allow paper DMR to be submitted within 60 days after the reporting period, if paper DMRs are required;

12. Allow electronic records to be used for inspection purposes; and

13. Allow biocides to be added to sump/drain systems.

Other Legal Requirements

Paperwork Reduction Act. The information collection required by this permit will reduce paperwork significantly by implementation of electronic reporting requirements. EPA is working on an electronic notice of intent (eNOI) system so applicants will file their NOIs online. EPA estimates that it takes 10 to 15 minutes to fill in all information required by the eNOI for each lease block. It also takes much less time to add, delete, or modify eNOI. EPA will also incorporate an electronic discharge monitoring report (NetDMR) requirement in the permit. The time for NetDMR preparation will be much less than that for paper DMR. The electronic filing systems will also significantly reduce the mailing costs.

State certification under section 401 of the CWA; consistency with the Texas Coastal Management Program; and compliance with National Environmental Policy Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, Historic Preservation Act, and Regulatory Flexibility Act requirements are discussed in the Region's responses to comments.

Dated: September 28, 2012.

Wren Stenger,

Acting Deputy Director, Water Quality Protection Division. EPA Region 6.

[FR Doc. 2012–24895 Filed 10–9–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS12–19]

Appraisal Subcommittee; Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

Description: In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: OCC—250 E Street SW., Room 8C, Washington, DC 20219.

Date: October 10, 2012.

Time: 10:30 a.m.

Status: Open.

Matters To Be Considered

Summary Agenda

September 27, 2012 Minutes—Open Session

(No substantive discussion of the above items is anticipated. These matters will be resolved with a single vote unless a member of the ASC requests that an item be moved to the discussion agenda.)

Discussion Agenda

Appraisal Foundation July 2012 Grant Reimbursement Request
Alabama Compliance Review
Louisiana Compliance Review
Michigan Compliance Review
New Jersey Compliance Review
Texas Compliance Review
Washington Compliance Review

How To Attend and Observe an ASC Meeting

Email your name, organization and contact information to *meetings@asc.gov.* You may also send a written request via U.S. Mail, fax or commercial carrier to the Executive Director of the ASC, 1401 H Street NW., Ste 760, Washington, DC 20005. The fax number is 202–289–4101. Your request must be received no later than 4:30 p.m., ET, on the Monday prior to the meeting. If that Monday is a Federal holiday, then your request must be received by 4:30 p.m. ET on the previous Friday. Attendees must have a valid government-issued photo ID and must agree to submit to reasonable security measures. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC meetings.

Dated: October 2, 2012.

James R. Park,

Executive Director.

[FR Doc. 2012–24928 Filed 10–9–12; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices

of the Board of Governors. Comments must be received not later than October 23, 2012.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Clayton B. Patrick, individually, and as a member of a family control group which consists of Clayton B. Patrick; Liz S. Patrick; Clayton M. Patrick; Carson B. Patrick; and Cooper A. Patrick,* all of Frankfort, Kentucky; to gain control of American Founders Bancorp, and thereby indirectly gain control of American Founders Bank, Inc., both in Lexington, Kentucky.

Board of Governors of the Federal Reserve System, October 3, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–24798 Filed 10–9–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 19, 2012.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Job Family which consists of Julia C. Job, Stuart L. Job, and Susan Job Hollingshead, as a group acting in concert and individually by Stuart L. Job and Susan Job Hollingshead,* all of Knoxville, Iowa; to acquire control of Duclarkee, Inc., and thereby indirectly acquire control of Iowa State Savings Bank, both in Knoxville, Iowa.

2. *Richard P. DelMedico, Ontario, Wisconsin; Doreen M. Dahl, Cashton, Wisconsin; Denise M. Gunderson, Byron, Minnesota; Diana M. Fischer, Reno, Nevada; and Debra M. Schmitz,* Norwalk, Wisconsin; together as a group acting in concert, to retain control of Ontario Bancorporation, Inc., and thereby indirectly retain control of Bank of Ontario, both in Ontario, Wisconsin.

Board of Governors of the Federal Reserve System, October 4, 2012.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2012–24883 Filed 10–9–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 2012.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Banner County Ban Corporation Employee Stock Plan and Trust,* Harrisburg, Nebraska; to become a bank holding company by acquiring at least 29 percent of the voting shares of Banner County Ban Corporation, and thereby acquire shares of Banner County Bank, Inc., both in Harrisburg, Nebraska.

Board of Governors of the Federal Reserve System, October 3, 2012.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2012–24799 Filed 10–9–12; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 19, 2012.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. BBJ Incorporated, Ord, Nebraska; to acquire McQuillan Insurance Agency, Greeley, Nebraska; and thereby engage in the sale of insurance activities in a town not exceeding 5,000 in population, pursuant to section 225.28(b)(11)(iii)(A).

Board of Governors of the Federal Reserve System, October 4, 2012.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2012–24882 Filed 10–9–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–17579–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

ACTION: 30-Day notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA) of 1995, the Office of the Secretary (OS), Department of Health and Human Services, will submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for renewal of the approved information collection assigned OMB control number 0937–0166, scheduled to expire on December 31, 2012. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

Deadline: Comments on the ICR must be received within 30 days of the issuance of this notice.

ADDRESSES: Submit your comments, including the OMB control number 0937–0166 and document identifier HHS–OS–17579–30D, to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806. Copies of the supporting statement and any related forms may be requested via email to *Information.Collection Clearance@hhs.gov* or by calling (202) 690–6162.

Information Collection Request Title: HHS 42CFR subpart B; Sterilization of Persons in Federally Assisted Family Planning Projects

Abstract: This is a request for extension of a currently approved collection for the disclosure and record-keeping requirements codified at 42 CFR part 50, subpart B (''Sterilization of Persons in Federally Assisted Family Planning Projects''). The consent form solicits information to assure voluntary and informed consent to persons undergoing sterilization in programs of health services which are supported by federal financial assistance administered by the Public Health Service (PHS) Act. It provides additional procedural protection to the individual and the regulation requires that the consent form be a copy of the form that is appended to the PHS regulation. In 2003, the PHS sterilization consent form was revised to conform to OMB government-wide standards for the collection of race/ethnicity data and to incorporate the PRA burden statement as part of the consent form. The current form has been updated to conform to the changed name of a federal entitlement program. The program, Aid to Families with Dependent Children (AFDC), utilized by low-income families with dependent children who need federal assistance, has been replaced by a different program with similar aims, Temporary Assistance for Needy Families (TANF). Consequently, the reference to A.F.D.C. in the first paragraph has been replaced with a reference to T.A.N.F.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Forms (if necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
100,000	citizen seeking sterilization	100,000	1	15/60	25,000

Keith A. Tucker,

Information Collection Clearance Officer, Department of Health and Human Services.

[FR Doc. 2012–24845 Filed 10–9–12; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Meeting of the Presidential Commission for the Study of Bioethical Issues

AGENCY: Department of Health and Human Services, Office of the Assistant Secretary for Health, Presidential Commission for the Study of Bioethical Issues.

ACTION: Notice of meeting.

SUMMARY: The Presidential Commission for the Study of Bioethical Issues will conduct its eleventh meeting in November. At this meeting, the Commission will continue discussing topics related to the ethical issues associated with the development of medical countermeasures for children.

DATES: The meeting will take place Monday and Tuesday, November 5–6, 2012.

ADDRESSES: Divinity School of The University of Chicago, 1025 E. 58th Street, Chicago, IL 60637. Telephone (773) 702–8200.

FOR FURTHER INFORMATION CONTACT: Hillary Wicai Viers, Communications Director, Presidential Commission for the Study of Bioethical Issues, 1425 New York Avenue NW., Suite C–100, Washington, DC 20005. Telephone: 202–233–3960. Email: *Hillary.Viers@bioethics.gov.* Additional information may be obtained at *www.bioethics.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act of 1972, Public Law 92–463, 5 U.S.C. app. 2, notice is hereby given of the eleventh meeting of the Presidential Commission for the Study of Bioethical Issues (the Commission). The meeting will be held from 9 a.m. to approximately 4:15 p.m. on Monday, November 5, 2012, and from 9 a.m. to approximately 11:30 a.m. on Tuesday, November 6, 2012, in Chicago, Ill. The meeting will be open to the public with attendance limited to space available. The meeting will also be webcast at *www.bioethics.gov.*

Under authority of Executive Order 13521, dated November 24, 2009, the President established the Commission. The Commission is an advisory panel of the nation's leaders in medicine, science, ethics, religion, law, and engineering. The Commission advises

the President on bioethical issues arising from advances in biomedicine and related areas of science and technology. The Commission seeks to identify and promote policies and practices that ensure scientific research, health care delivery, and technological innovation are conducted in a socially and ethically responsible manner.

The main agenda item for the Commission's eleventh meeting is to continue discussing topics related to the ethical issues associated with the development of medical countermeasures for children.

The draft meeting agenda and other information about PCSBI, including information about access to the webcast, will be available at *www.bioethics.gov.*

The Commission welcomes input from anyone wishing to provide public comment on any issue before it. Respectful debate of opposing views and active participation by citizens in public exchange of ideas enhances overall public understanding of the issues at hand and conclusions reached by the Commission. The Commission is particularly interested in receiving comments and questions during the meeting that are responsive to specific sessions. Written comments will be accepted at the registration desk and comment forms will be provided to members of the public in order to write down questions and comments for the Commission as they arise. To accommodate as many individuals as possible, the time for each question or comment may be limited. If the number of individuals wishing to pose a question or make a comment is greater than can reasonably be accommodated during the scheduled meeting, the Commission may make a random selection.

Anyone planning to attend the meeting who needs special assistance, such as sign language interpretation or other reasonable accommodations, should notify Esther Yoo by telephone at (202) 233–3960, or email at *Esther.Yoo@bioethics.gov* in advance of the meeting. The Commission will make every effort to accommodate persons who need special assistance.

Written comments will also be accepted in advance of the meeting and are especially welcome. Please address written comments by email to *info@bioethics.gov,* or by mail to the following address: Public Commentary, Presidential Commission for the Study of Bioethical Issues, 1425 New York Ave. NW., Suite C–100, Washington, DC 20005. Comments will be publicly available, including any personally identifiable or confidential business information that they contain. Trade secrets should not be submitted.

Dated: September 28, 2012.

Lisa M. Lee,

Executive Director, Presidential Commission for the Study of Bioethical Issues.

[FR Doc. 2012–24911 Filed 10–9–12; 8:45 am]

BILLING CODE 4154–06–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No FDA–2012–N–0001]

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Endocrinologic and Metabolic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 8, 2012, from 8 a.m. to 5 p.m.

Location: DoubleTree by Hilton Hotel Washington DC/Silver Spring, The Ballrooms, 8727 Colesville Rd., Silver Spring, MD 20910. The hotel's telephone number is 301–589–5200.

Contact Person: Paul Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the safety and efficacy of new drug applications (NDAs) 203313, insulin degludec/insulin aspart [rDNA origin] injection and 203314, insulin degludec [rDNA origin] injection, manufactured by Novo Nordisk Inc. The proposed indication (use) for these applications is for the treatment of Type 1 and Type 2 diabetes mellitus.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 24, 2012. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 16, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 17, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Paul Tran at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/*

AboutAdvisoryCommittees/ucm111462.htm for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 3, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–24861 Filed 10–9–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office on (301) 443–1984.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Maternal and Child Health Bureau Performance Measures for Discretionary Grants (OMB No. 0915–0298): Revision

The Maternal and Child Health Bureau (MCHB) intends to continue to collect performance data for Special Projects of Regional and National Significance (SPRANS), Community Integrated Service Systems (CISS), and other grant programs administered by MCHB.

The Health Resources and Services Administration (HRSA) proposes to continue using reporting requirements for SPRANS projects, CISS projects, and other grant programs administered by MCHB, including national performance measures previously approved by OMB, and in accordance with the ''Government Performance and Results Act (GPRA) of 1993'' (Pub. L. 103–62). This Act requires the establishment of measurable goals for federal programs that can be reported as part of the budgetary process, thus linking funding decisions with performance. Performance measures for MCHB discretionary grants were initially approved in January 2003. Approval from OMB is being sought to continue the use of these measures. Some of these measures are specific to certain types of programs and will not apply to all grantees. Through the experience of utilizing these measures, we are enhancing them to better reflect program goals. Specifically, additional outcome measures that can be utilized by grantees that predominantly provide infrastructure services are being developed for submission to OMB.

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Burden hours per response	Total burden hours
Grant Report	900	1	900	41	36,900

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to (202) 395–5806. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Dated: October 3, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2012–24889 Filed 10–9–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Interagency Coordinating Committee on the Validation of Alternative Methods Evaluation Report and Recommendations for Identifying Chemical Eye Hazards With Fewer Animals; Availability of Report; Notice of Transmittal to Federal Agencies

SUMMARY: The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) announces availability of an Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) test method evaluation report (TMER) that provides recommendations for identifying chemical eye hazards with fewer animals.

ICCVAM concludes that using a classification criterion of one or more positive animals in a three-animal test to identify chemicals and products that are eye hazards will maintain hazard classification equivalent to that provided by current testing procedures, while using up to 50% to 83% fewer animals. ICCVAM recommends consideration of this classification criterion together with eye safety testing procedures that use a maximum of three animals per test substance. This recommendation also harmonizes the number of animals used for eye safety testing across U.S. regulatory agencies and international test guidelines.

The report and recommendations have been transmitted to Federal agencies for their review and response to ICCVAM.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Stokes, Director, NICEATM, National Institute of Environmental Health Sciences (NIEHS), P.O. Box 12233, Mail Stop: K2–16, Research Triangle Park, NC 27709. Phone: 919–541–2384, Fax: 919–541–0947, Email: *niceatm@niehs.nih.gov*. Hand Deliver/Courier address: NICEATM, NIEHS, Room 2034, 530 Davis Drive, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background: Eye safety testing procedures vary among U.S. agencies. Current testing procedures specified in the U.S. Code of Federal Regulations (16 CFR 1500.42) provide criteria and procedures for identifying eye hazards based on rabbit eye test results (CPSC,

2010); however, current testing procedures (16 CFR 1500.42) do not provide criteria to classify results obtained from a three-animal test. NICEATM, in collaboration with ICCVAM, conducted an analysis to determine classification criteria based on results from a three-animal test that would maintain hazard classification equivalent to that provided by current testing procedures (16 CFR 1500.42).

The process for developing the ICCVAM recommendations began with a critical review of the analysis (Haseman *et al.,* 2011) and existing data by the ICCVAM Interagency Ocular Toxicity Working Group (OTWG). As part of ICCVAM's ongoing international collaborations, scientists from the European Union Reference Laboratory for Alternatives to Animal Testing and the Japanese Center for the Validation of Alternative Methods served as liaisons to the OTWG. The analysis (Haseman *et al.,* 2011) was provided to the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM) at the June 17–18, 2010 meeting (75 FR 26758, May 12, 2010) for comment. The public was also given an opportunity to comment at that meeting. The OTWG then developed draft ICCVAM recommendations regarding classification criteria based on results from a three-animal test that would maintain hazard classification equivalent to that provided by current testing procedures (16 CFR 1500.42). The draft ICCVAM recommendations and supporting analysis (Haseman *et al.,* 2011) were made available on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov/methods/ocutox/reducenum.htm*) for comment by the broad stakeholder community (76 FR 50220, August 12, 2011).

ICCVAM considered the analysis (Haseman *et al.,* 2011), all public comments, and the SACATM comments in preparing the final ICCVAM test method recommendations. The recommendations are provided in the *ICCVAM Test Method Evaluation Report: Identifying Chemical Eye Hazards with Fewer Animals* (NIH Publication No. 12–7930), which is available on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov/methods/ocutox/reducenum-TMER.htm*). ICCVAM concludes that using a classification criterion of one or more positive animals in a three-animal test to identify chemicals and products that are eye hazards will maintain hazard classification equivalent to that provided by current testing procedures (16 CFR 1500.42 [CPSC, 2010]), while using up to 50% to 83% fewer animals. ICCVAM, therefore, recommends consideration of this classification together with eye safety testing procedures that use a maximum of three animals per test substance. Consistent with ICCVAM's duty to foster interagency and international harmonization (42 U.S.C. 285*l*-3), this recommendation harmonizes the number of animals used for eye safety testing across U.S. regulatory agencies and international test guidelines. The ICCVAM TMER includes relevant ocular toxicity regulations and guidelines, applicable **Federal Register** notices, public comments, and SACATM meeting minutes.

Background Information on ICCVAM, NICEATM, and SACATM

ICCVAM is an interagency committee composed of representatives from 15 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and integrated testing strategies with regulatory applicability and promotes the scientific validation and regulatory acceptance of testing methods that more accurately assess the safety and hazards of chemicals and products and that reduce, refine (enhance animal well-being and lessen or avoid pain and distress), or replace animal use. The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) established ICCVAM as a permanent interagency committee of the NIEHS under NICEATM. NICEATM administers ICCVAM, provides scientific and operational support for ICCVAM-related activities, and conducts independent validation studies to assess the usefulness and limitations of new, revised, and alternative test methods and strategies. NICEATM and ICCVAM welcome the public nomination of new, revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about NICEATM and ICCVAM can be found on the NICEATM–ICCVAM Web site (*http://iccvam.niehs.nih.gov*).

SACATM was established in response to the ICCVAM Authorization Act (Section 285*l*–3[d]) and is composed of scientists from the public and private sectors. SACATM advises ICCVAM, NICEATM, and the Director of the NIEHS and NTP regarding statutorily mandated duties of ICCVAM and activities of NICEATM. SACATM provides advice on priorities and activities related to the development, validation, scientific review, regulatory acceptance, implementation, and national and international harmonization of new, revised, and alternative toxicological test methods. Additional information about SACATM, including the charter, roster, and records of past meetings, can be found at *http://ntp.niehs.nih.gov/go/167.*

References

CPSC. 2010. Federal Hazardous Substances Act Regulations. 16 CFR 1500. Available: *http://www.gpo.gov/fdsys/pkg/CFR-2011-title16-vol2/pdf/CFR-2011-title16-vol2-chapII-subchapC.pdf.*

Haseman J.K., Allen D.G., Lipscomb E.A., Truax J.F., Stokes WS. 2011. Using fewer animals to identify chemical eye hazards: revised criteria necessary to maintain equivalent hazard classification. Regul Toxicol Pharmacol 61: 98–104.

Dated: October 3, 2012.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2012–24868 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Social, Behavioral, Health Services, and Policy Research on Minority Health and Health Disparities (R01).

Date: November 7–9, 2012.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Maryline Laude-Sharp, Ph.D., Scientific Review Officer, National Institute on Minority Health and Health

Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 451–9536, *mlaudesharp@mail.nih.gov.*

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Basic and Applied Biomedical Research on Minority Health and Health Disparities (R01).

Date: November 15–16, 2012.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Maryline Laude-Sharp, Ph.D., Scientific Review Officer, National Institute on Minority Health, and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 451–9536, *mlaudesharp@mail.nih.gov.*

Dated: October 3, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24869 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Peer Review of R01 Grant Applications.

Date: November 14–15, 2012.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An18, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Margaret J. Weidman, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An18B, Bethesda, MD 20892, 301–594–3663, *weidmanma@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 3, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24870 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Training and Workforce Development Subcommittee—A.

Date: November 14, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Carole H. Latker, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18, Bethesda, MD 20892, 301–594–2848, *latkerc@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 3, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24871 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; MBRS SCORE.

Date: November 13, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Horowits, Ph.D., Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18, Bethesda, MD 20892–6200, 301–594–6904, *horowitr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 2, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24872 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; INBRE 2012.

Date: November 6, 2012.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An18, Bethesda, MD 20892.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 1 Democracy Plaza, 6701 Democracy Boulevard, Room 1068, Bethesda, MD 20892, 301–435–0807, *slicelw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 2, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24873 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Children's Health and the Environment.

Date: November 6–8, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

Contact Person: Linda K Bass, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P. O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *bass@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Environmental Influences on Children's Health.

Date: November 8, 2012.

Time: 10 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

Contact Person: Leroy Worth, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P. O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 3, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24874 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Systems Biology of the Aged in Yeast.

Date: October 31, 2012.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892.

Contact Person: Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; ROS and Aging II.

Date: November 7, 2012.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway BLDG., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Aging and CKD.

Date: November 16, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD, (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building RM. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 3, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24875 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c) (4) and 552b(c) (6), Title 5 U.S.C., as amended. The purpose of this meeting is to evaluate requests for development resources for potential new cancer diagnostics. The outcome of the evaluation will be information for consideration by an internal NCI committee that will decide whether NCI/DCTD should support the requests and make available contract resources for development of the potential diagnostics to improve the treatment of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Clinical Assay Development Program (CADP).

Date: November 27, 2012.

Time: 8 a.m.—3 p.m.

Agenda: To review grant applications for the CADP.

Place: National Institutes of Health, Neurosciences Building, 6001 Executive Boulevard, Conference Room C, Rockville, MD 20852.

Contact Person: Tracy G. Lively, Ph.D., Executive Secretary, Cancer Diagnosis Program (CADP), National Cancer Institute, NIH, 6130 Executive Boulevard, Room 6035A, Bethesda, MD 20892, 301–496–8639, *livelyt@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 2, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24876 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Gastrointestinal Physiology/Pathophysiology-2.

Date: October 30, 2012.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Liver Biology and Pathophysiology.

Date: October 31, 2012.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Transplantation, Tolerance, and Tumor Immunology.

Date: November 6, 2012.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jian Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Behavioral Neuroscience.

Date: November 8–9, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavillion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell, Computational, and Molecular Biology.

Date; November 8, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Maria DeBernardi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, 301–435–1355, *debernardima@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders, Language, Communication and Related Neurosciences.

Date: November 8–9, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Long Beach Hotel, 111 East Ocean Blvd., Long Beach, CA 90802.

Contact Person: Vilen A. Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering, Computation and Modeling—AREA Review.

Date: November 8–9, 2012.

Time: 8:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Marie-Jose Belanger, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC, Bethesda, MD 20892, *belangerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biological Chemistry, Biophysics, and Drug Discovery.

Date: November 8, 2012.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biological Chemistry, Biophysics, and Drug Discovery.

Date: November 8, 2012.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, MSC, Bethesda, MD 20892, 301–435–1047, *dennis.hlasta@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–11–100: Alzheimer's Disease Pilot Clinical Trials.

Date: November 8, 2012.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA: Endocrinology, Metabolism, Nutrition and Reproduction.

Date: November 8, 2012.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neural Injury and Neurodegeneration.

Date: November 8, 2012.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237–9838, *bhagavas@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Language and Communication.

Date: November 8, 2012.

Time: 12 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 3, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24877 Filed 10–9–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Uniform Application for the Mental Health Block Grant and Substance Abuse Block Grant FY 2014–2015 Application Guidance and Instructions (OMB No. 0930–0168)—Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA) is requesting approval from the Office of Management and Budget (OMB) for a revision of the 2014 and 2015 Community Mental Health Services Block Grant (MHBG) and Substance Abuse Prevention and Treatment Block Grant (SABG) Guidance and Instructions into a uniform block grant application.

Currently, the SABG and the MHBG differ on a number of their practices (e.g., data collection at individual or aggregate levels) and statutory authorities (e.g., method of calculating MOE, stakeholder input requirements for planning, set asides for specific populations or programs, etc.). Historically, the Centers within SAMHSA that administer these block grants have had different approaches to application requirements and reporting. To compound this variation, states have had different structures for accepting, planning, and accounting for the block grants and the prevention set aside within the SABG. As a result, how these dollars are spent and what is known about the services and clients that receive these funds varies by block grant and by state.

In addition, between 2014 and 2015, 32 million individuals who are uninsured will have the opportunity to enroll in Medicaid or private health insurance. This expansion of health insurance coverage will have a significant impact on how State Mental Health Authorities (SMHAs) and State Substance Abuse Authorities (SSAs) use their limited resources. Many individuals served by these authorities are funded through federal block grant funds. SAMHSA proposes that block grant funds be directed toward four purposes: 1) to fund priority treatment and support services for individuals without insurance or who cycle in and out of health insurance coverage; 2) to fund those priority treatment and support services not covered by Medicaid, Medicare or private insurance offered through the exchanges and that demonstrate success in improving outcomes and/or supporting recovery; 3) to fund universal, selective and targeted prevention activities and services; and 4) to collect performance and outcome data to determine the ongoing effectiveness of behavioral health prevention, treatment and recovery

support services and to plan the implementation of new services on a nationwide basis.

States should begin planning now for FY 2014 when more individuals will have additional opportunities to be insured. To ensure sufficient and comprehensive preparation, SAMHSA will use FY 2013 to continue to work with states to plan for and transition the Block Grants to these four purposes. This transition includes fully exercising SAMHSA's existing authority regarding states' and jurisdictions' (subsequently referred to as ''states'') use of block grant funds, and a shift in SAMHSA staff functions to support and provide technical assistance for states receiving block grant funds as they move through these changes.

The proposed MHBG and SABG build on ongoing efforts to reform health care, ensure parity and provide states with new tools, new flexibility, and state/territory-specific plans for available resources to provide their residents the health care benefits they need. The planning section of the block grant application provides a process for states to identify priorities for individuals who need behavioral health services in their jurisdictions, develop strategies to address these needs, and decide how to expend block grant funds. In addition, the planning section of the block grant requests additional information from states that could be used to assist them in their reform efforts. The plan submitted by each state will provide information for SAMHSA and other federal partners to use in working with states to improve their behavioral health systems over the next two years as health care and economic conditions evolve.

The FY 2014–2015 block grant application provides states the flexibility to submit one rather than two separate block grant applications if they choose. It also allows states to develop and submit a bi-annual rather than an annual plan, recognizing that the demographics and epidemiology do not often change on an annual basis. These options may decrease the number of applications submitted from four in two years to one.

Over the next several months, SAMHSA will assist states (individually and in smaller groups) as they develop their block grant applications. While there are some specific statutory requirements that SAMHSA will look for in each submitted application, SAMHSA intends to approach this process with the goal of assisting states in setting a clear direction for system improvements over time, rather than as a simple effort to seek compliance with minimal requirements.

Consistent with previous applications, the FY 2014–2015 application has sections that are required and other sections where additional information is requested, but not required. The FY 2014–2015 application requires states to submit a face sheet, a table of contents, a behavioral health assessment and plan, reports of expenditures and persons served, executive summary, and funding agreements, assurances, and certifications. In addition, SAMHSA is requesting information on key areas that are critical to the state's success in addressing health reform and parity. States will continue to receive their annual grant funding if they only chose to submit the required section of their state plans or choose to submit separate plans for the MHBG or SABG. Therefore, as part of this block grant planning process, SAMHSA is asking states to identify their technical assistance needs to implement the strategies they identify in their plans for FY 2014 and 2015.

To facilitate an efficient application process for states in FY 2014–2015, SAMHSA convened an internal workgroup to develop the block grant planning section. In addition, SAMHSA consulted with representatives from the State Mental Health and State Substance Abuse Authorities to receive input regarding proposed changes to the block grant. Comments were requested from federal partners including the Department of Health and Human Services (HHS), the Office of Management and Budget (OMB), the Office of National Drug Control Policy (ONDCP), and the Assistant Secretary for Financial Resources (ASFR). Other stakeholder groups consulted with included NASADAD and NASMHPD. Based on these discussions with states, federal partners, and stakeholder groups, SAMHSA is proposing the following revisions to the block grant application.

Changes to Assessment and Planning Activities

SAMHSA has not made major revisions to the FY 2014–2015 application. The proposed revisions are based primarily on previous instructions provided in the FY 2012–2013 application guidance. In building on the FY 2012–2013 guidance, SAMHSA proposed revisions to expand the areas of focus (environmental factors) for states to describe their comprehensive plans to provide treatment, services, and supports for individuals with behavioral health needs. These revisions will enable SAMHSA to assess the extent to which states plan for and implement provisions of the Affordable Care Act and determine whether block grants funds are being directed toward the four purposes of the grant.

The proposed revisions reflect changes within the planning section of the application. The most significant of these changes relate to prevention, particularly primary prevention; data and quality; enrollment of individuals and providers; and descriptions of good and modern behavioral health services. States are encouraged to address each of the focus areas. SAMHSA has provided a set of guiding questions to stimulate and direct the dialogue that states may engage in to determine the various approaches used to develop their responses to each of the focus areas.

The proposed revisions are described below:

Areas of Focus/Environmental Factors

- *Coverage for M/SUD Services*—Beginning in 2014, block grant dollars should be used to pay for (1) people who are uninsured, (2) services that are not covered by insurance and Medicaid, (3) prevention, and (4) the collection of performance and outcome data. Presumably, there will be similar concerns at the state level that state dollars are being used for people and/or services not otherwise covered. States (or the federal exchange) are currently making plans to implement the benchmark plan chosen for Qualified Health Plans (QHPs) and their expanded Medicaid program. States should begin to develop strategies that will monitor the implementation of the Act in their states. States should begin to identify whether people have better access to mental health and substance use disorder services. In particular, states will need to determine if QHPs and Medicaid are offering services for mental and substance abuse disorders and whether services are offered consistent with provisions of MHPAEA.
- *Affordable Insurance Exchanges*—Affordable Insurance Exchanges (Exchanges) will be responsible for performing a variety of critical functions to ensure access to much needed behavioral health services. Outreach and education regarding enrollment in QHPs or expanded Medicaid will be critical. SMHAs and SSAs should understand their state's new eligibility determination and enrollment system. They should also understand how insurers (commercial, Medicaid and Medicare plans) will be making decisions regarding their provider networks. States should consider

developing benchmarks regarding the expected number of individuals in their publicly funded behavioral health system that should be insured by the end of FY 2015. In addition, states should set targets or recommendations for the number of providers who will be participating in insurers' networks that are currently not billing third party insurance.

• *Program Integrity* —The Act directs the Secretary of HHS to define EHBs. Non-grandfathered plans in the individual and small group markets both inside and outside the Exchanges, Medicaid benchmark and benchmark equivalent plans, and basic health programs must cover these EHBs. The selected benchmark plan would serve as a reference plan, reflecting both the scope of services and limits offered by a ''typical employer plan'' in a state as required by the Act.

At this point in time, many states will know which mental health and substance abuse services are covered in their benchmark plans offered by QHPs and Medicaid programs. SMHAs and SSAs should be focused on two main areas related to EHBs: monitoring what is covered and aligning block grants and state funds for what is not covered. These include: 1) ensuring that QHPs and Medicaid programs are including EHBs as per the state benchmark plan; 2) ensuring that individuals are aware of the covered mental health and substance abuse benefits; 3) ensuring that people will utilize the benefits despite concerns that employers will learn of mental health and substance abuse diagnosis of their employees; and 4) monitoring utilization of mental health and substance abuse benefits in light of utilization review, medical necessity, etc.

SAMHSA expects states to implement policies and procedures that are designed to ensure that block grant funds are used in accordance with the four priority categories identified above. Consequently, states may have to reevaluate their current management and oversight strategies to accommodate the new priorities. They may also need to become more proactive in ensuring that state-funded providers are enrolled in the Medicaid program and have the ability to determine if clients are enrolled or eligible to enroll in Medicaid. Additionally, compliance review and audit protocols may need to be revised to provide for increased tests of client eligibility and enrollment.

• *Use of Evidence in Purchasing Decisions*—SAMHSA is interested in whether or how states are using evidence in their purchasing decisions, educating policymakers or supporting providers to offer high quality services. In addition, SAMHSA is interested in additional information that is needed by SMHAs and SSAs in their efforts to continue to shape their and other purchasers decisions regarding mental health and substance abuse services.

• *Quality*—Up to 25 data elements, including those in the table below will be available through the Behavioral Health Barometer which SAMHSA will prepare at least bi-annually to share with states for purposes of informing the planning process. Using this information, states will select specific priority areas. States will receive feedback on an annual basis in terms of national, regional and state performance and will be expected to provide information on the additional measures they have identified outside of the core measures and state barometer. Reports on progress will serve to highlight the impact of the block grant funded services and thus allow SAMHSA to collaborate with the states and other HHS Operating Divisions in providing technical assistance to improve behavioral health and related outcomes.

	Prevention	Substance abuse treatment	Mental health services
Health	Youth and Adult Heavy Alcohol Use—Past 30 Day.	Reduction/No Change In substance use past 30 days.	Level of Functioning.
Home	Parental Disapproval Of Drug Use	Stability in Housing	Stability in Housing.
Community	Environmental Risk/Exposure to Prevention Messages And/or Friends Disapproval.	Involvement in Self-Help	Improvement/Increase in quality/number of supportive relationships among SMI population.
Purpose	Pro-Social Connections-Community Connections.	Percent in TX employed, in school, etc.—TEDS.	Clients w/SMI or SED who are employed, or in school.

• *Trauma*—In order to better meet the needs of those they serve, states should take an active approach to addressing trauma. Trauma screening matched with trauma-specific therapies such as exposure therapy or trauma-focused cognitive behavioral approaches should be adopted to ensure that treatments meet the needs of those being served. States should also consider adopting a trauma informed care approach consistent with SAMHSA's trauma informed care definition and principles. This means providing care based on an understanding of the vulnerabilities or triggers of trauma survivors that traditional service delivery approaches may exacerbate, so that these services and programs can be more supportive and avoid re-traumatization.

• *Justice*—The SABG and MHBG may be especially valuable in supporting care coordination to promote pre-arrest, pre-adjudication and pre-sentencing diversion, providing care during gaps in enrollment after incarceration, and supporting other efforts related to enrollment. Communities across the United States have instituted problem-solving courts, including those for defendants with mental and substance use disorders. These courts seek to prevent incarceration and facilitate community-based treatment for offenders, while at the same time protecting public safety. There are two types of problem-solving courts related to behavioral health: Drug courts and mental health courts. However, there are a number of different types of problem-solving courts. In addition to drug courts and mental health courts, some jurisdictions, for example, operate courts for DWI/DUI, veterans, family, teen, reentry, as well as courts such as gambling, domestic violence, truancy, etc. States are also encouraged to work with municipalities to determine whether municipal mental health or drug courts might be viable. Specialized courts provide a forum in which the adversarial process can be relaxed and problem solving and treatment processes can be emphasized. States should place emphasis on screening, assessment, and services provided prior to arrest, adjudication and/or sentencing to divert persons with mental and/or substance use disorders from correctional settings. Secondarily, states should examine specific barriers such as lack of identification needed for enrollment, loss of eligibility resulting from incarceration, and care coordination for individuals with chronic health conditions, housing

instability, and employment challenges. Secure custody rates decline when community agencies are present to advocate for alternatives for detention.

• *Parity Education*—SAMHSA encourages states to take proactive steps to improve consumer knowledge about parity. As one plan of action, states can develop communication plans to provide and address key issues. SAMHSA is in a unique position to provide content expertise to assist states, and is asking for input from states to address this position.

• *Primary and Behavioral Health Care Integration Activities*—Numerous provisions in the Affordable Health Care Act and elsewhere improve the coordination of care for patients through the creation of health homes, where teams of health professionals will be rewarded to coordinate care for patients with chronic conditions. States that had approved Medicaid State Plan Amendments (SPAs) received 90 percent Federal Medicaid Assistance Percentage (FMAP) for health home services for eight quarters. At this critical point in time, some states are ending their two years of enhanced FMAP and rolling back to their regular state FMAP for health home services. In addition, many states may be a year into the implementation of their dual eligible demonstration projects. States should indicate how these changes and opportunities affect their application.

• *Health Disparities*—In the block grant application, states are asked to define the populations they intend to serve. Within these populations of focus are subpopulations that may have disparate access to, use of, or outcomes from provided services. These disparities may be the result of differences in insurance coverage, language, beliefs, norms, values, and/or socioeconomic factors specific to that subpopulation. For instance, Latino adults with SMI may be at heightened risk for metabolic disorder due to lack of appropriate in-language primary care services; American Indian/Alaska Native youth may have an increased incidence of underage binge drinking due to coping patterns related to historical trauma within the American Indian/Alaska Native community; and African American women may be at greater risk for contracting HIV/AIDS due lack of access to education on risky sexual behaviors in urban low-income communities, etc. While these factors might not be pervasive among the general population served by the block grant, they may be predominant among subpopulations or groups vulnerable to disparities. To address and ultimately reduce disparities, it is important for states to have a detailed understanding of who is being served and not being served within their communities, including in what languages services are provided, in order to implement appropriate outreach and engagement strategies for diverse populations. The types of services provided, retention in services and outcomes are critical measures of quality and outcomes of care for diverse groups. In order to address the potentially disparate impact for their block grant funded efforts, states will be asked to address access, use and outcomes for subpopulations, which can be defined by the following factors: race, ethnicity, language, gender (including transgender), tribal connection and sexual orientation (i.e., lesbian, gay, bisexual).

• *Recovery*—SAMHSA encourages states to take proactive steps to implement recovery support services. SAMHSA is in a unique position to provide content expertise to assist states, and is asking for input from states to address this position. SAMHSA has launched Bringing Recovery Supports to Scale Technical Assistance Center Strategy (BRSS TACS). BRSS TACS assists states and others to promote adoption of recovery-oriented supports, services, and systems for people in recovery from mental or substance use disorders.

• *Children and Adolescents Behavioral Health Services*—Since 1993, SAMHSA has funded the Children's Mental Health Initiative (CMHI) to build the System of Care approach in states and communities around the country. This has been an ongoing program with over 160 grants awarded to states and communities. Every state has received at least one CMHI grant. In 2007, SAMHSA awarded State Substance Abuse Coordinator grants to 16 states to build a state infrastructure for substance use disorders. This work has continued with a focus on financing and workforce development to support a recovery-oriented system of care that incorporates established evidenced-based treatment for youth with substance use disorders.

SAMHSA expects that states will build on this well-documented, effective system of care approach to serving children and youth with behavioral health needs. Given the multi-system involvement of these children and youth, the system of care approach provides the infrastructure to improve care coordination and outcomes, manage costs and better invest resources. The array of services and supports in the system of care approach includes non-residential (e.g., wraparound service planning, intensive care management, outpatient therapy, intensive home-based services, substance use disorder intensive out patient services, continuing care, mobile crisis response, etc.), supportive services (e.g., peer youth support, family peer support, respite services, mental health consultation, supported education and employment, etc.), and residential services (e.g., therapeutic foster care, crisis stabilization services, inpatient medical detoxification, etc.).

Although the statutory dates for submitting the block grant application, plan and annual report remain unchanged, SAMHSA requests that the MHBG and SABG applications be submitted on the same date. In addition, the dates for submitting the plans have changed to better comport with most states fiscal and planning years (July 1st through June 30th of the following year).

Application(s) for FY	Application due	Plan due	Planning period	Reports due
2014	4/1/13	Yes	7/1/13–6/30/15	12/1/13
2015	4/1/14	No		12/1/14
2016	4/1/15	Yes	7/1/15–6/30/17	12/1/15
2017	4/01/16	No		12/1/16

Summary of Changes as a Result of the 60-Day ***Federal Register*** *Notice*

SAMHSA received 232 comments from 36 individuals or organizations. The comments expressed general support for the option to submit a combined plan for mental and substance use disorders (M/SUD) for both block grants, the movement to the behavioral health barometer, the expressed four priorities for the block grants, the two-year planning cycle, and tribal consultation. Many comments were duplicative and include requests that SAMHSA eliminate any reference to

initiatives in the President's budget proposal and include a discussion of only those initiatives that are authorized; ask only for what is required information and not include any areas that are requested; clarify that SABG dollars cannot be used for mental health promotion; provide clear operational definitions for each outcome measure; simplify the data collected; reduce or clarify the expanded area of focus; change the acronym for the substance abuse block grant back to SAPTBG; address a concern from some states that the April 1 deadline will be difficult given other priority activities in the states; emphasize older adults and veterans; require substance abuse representation on the planning council for those states submitting a combined application; and, address a concern that the use of block grant funds are becoming more prescriptive instead of giving states maximum flexibility.

SAMHSA received some comments about the ''Behavioral Health Advisory Council Composition by Member Type'' table indicating that the reference to members from diverse racial and LGBTQ populations is potentially confusing and creates a dilemma as to which category members should be ascribed, the term 'leading state experts' is also confusing and somewhat arbitrary, and the membership categorization for ''Federally Recognized Tribe Representatives'' could be confused with council members who happen to be tribal members. SAMHSA agrees with the recommendations that the request for a number of individuals and providers from diverse racial, ethnic, and LGBTQ backgrounds in the table will skew the calculation of the percentage of consumers/state members. SAMHSA has moved this information request, as well as the request to identify any member who is an individual in recovery from SUD or advocating for SUD services to the bottom of the table and removed it from the calculation. ''Leading state expert'' is deleted. Federally Recognized Tribal Representatives are individuals who are officially designated by the tribe to sit on the Council.

SAMHSA added clarifying language within the prevention section, that clarifies that states will be allowed to use some of their current Mental Health Block Grant to support mental health promotion and mental illness prevention activities related to adults with serious mental illnesses and children with serious emotional disturbances and their families. In addition, the 20% set aside funds of the Substance Abuse Block Grant must be used for substance abuse primary prevention activities by the state. Many evidenced-based substance abuse programs have a positive impact on the prevention of substance use and abuse as well as other health and social outcomes such as education, juvenile justice involvement, violence prevention and mental health.

SAMHSA reduced the number of questions in the prevention planning section, in the Primary and Behavioral Health Care Integration Activities section, and in the Technical Assistance needs section..

SAMHSA has renumbered and, in some instances, renamed tables throughout the document to eliminate the redundancy in the table numbers between the planning and reporting sections and improve user navigation. SAMHSA also revised the table entitled 'Behavioral Health Advisory Council Composition by Member Type.' In addition, SAMHSA enhanced the tables of contents in the reporting sections to facilitate user navigation.

Estimates of Annualized Hour Burden

The estimated annualized burden for a uniform application is 37,429 hours. Burden estimates are broken out in the following tables showing burden separately for Year 1 and Year 2. Year 1 includes the estimates of burden for the uniform application and annual reporting. Year 2 includes the estimates of burden for the application update and annual reporting. The reporting burden remains constant for both years.

TABLE 1—ESTIMATES OF APPLICATION AND REPORTING BURDEN FOR YEAR 1

Application element	Number respondents	Responses/ respondents	Burden/ response (hours)	Total burden
Application Burden				
Yr One Plan (separate submissions)	30 (CMHS) 30 (SAPT)	1	282	16,920
Yr One Plan (combined submission)	30	1	282	8,460
Application Sub-total	60			25,380
Reporting Burden				
MHBG Report	59	1	186	10,974
URS Tables	59	1	35	2,065
SABG Report	[1]60	1	186	11,160
Table 5	[2]15	1	4	60
Reporting Subtotal	60			24,259
Total	119			49,639

[1] Redlake Band of the Chippewa Indians from MN receives a grant.
[2] Only 15 States have a management information system to complete Table 5.

TABLE 2—ESTIMATES OF APPLICATION AND REPORTING BURDEN FOR YEAR 2

Application element	Number respondents	Responses/ respondents	Burden/ response (hours)	Total burden
Application Burden				
Yr Two Plan	24	1	40	960
Application Sub-total	24			960
Reporting Burden				
MHBG Report	59	1	186	10,974
URS Tables	59	1	35	2,065
SABG Report	60	1	186	11,160
Table 5	15	1	4	60
Reporting Subtotal	60			24,259
Total	119			25,219

The total annualized burden for the application and reporting is 37,429 hours (49,639 + 25,219 = 74,858/2 years = 37,429).

Link for the application: *www.samhsa.gov/grants/blockgrant.*

Written comments and recommendations concerning the proposed information collection should be sent by November 9, 2012 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2012–24862 Filed 10–9–12; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4078–DR; Docket ID FEMA–2012–0002]

Oklahoma; Amendment No. 2 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 Oklahoma (FEMA–4078–DR), dated August 22, 2012, and related determinations.

DATES: *Effective Date:* September 27, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of August 22, 2012.

Cleveland County for Individual 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. 2012–24718 Filed 10–9–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5613–N–10]

Privacy Act of 1974; Home Equity Reverse Mortgage Information Technology (HERMIT)—Notice of Modification to, and Deletion of HUD/HS–10, Home Equity Conversion Mortgage System

AGENCY: Office of the Chief Information Officer HUD.

ACTION: Notification of modification to, and deletion of existing system of records notification.

SUMMARY: Pursuant to the provision of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of Housing and Urban Development (HUD) is providing notice of its intent to modify and delete one of its system of records notifications, the HUD/HS–10, Home Equity Conversion Mortgage (HECM) system. HUD/HS–10, HECM is being modified and replaced by the new HECM program system, Home Equity Reverse Mortgage Information Technology (HERMIT). The modifications for the existing system of

records notification will reflect clarification of system activities which result in minor changes to the existing system of records notification: Categories of Individuals covered by the system (including categories of users and purposes of such users); Categories of Records covered by the system (and in the system); Purposes of the system; New system record locations, New naming convention for system, Routine uses category assigned (and purpose of such uses). All revisions are conducted to reflect the present status of the information contained in the system. The HERMIT system will allow Housing to consolidate many of the HECM program activities and improve the effectiveness of the program. The present state of the system is clarified in the supplementary and purpose information section. The scope and/or business objectives of the Home Equity Conversion Mortgage Program remain unchanged. The HUD/HS–10, HECM system of records notification will be obsolete upon publication of this notice.

DATES: *Effective Date:* This proposal shall become effective, without further notice, November 9, 2012, unless comments are received during or before this period which would result in a contrary determination.

Comments Due Date: November 9, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington, DC 20410–3000. Communications should refer to the above docket number and title. FAX comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Inquiries pertaining to Privacy Act records, contact Donna Robinson-Staton, Chief Privacy Officer, telephone number (202) 402–8073, 451 Seventh Street SW., Washington, DC 20410 (Attention: Capitol View Building, 4th Floor) [The above telephone numbers are not toll free numbers.] A telecommunications device for hearing- and speech-impaired persons (TTY) is available by calling the Federal Information Relay Service's toll-free telephone number (800) 877–8339.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, notice is given that HUD proposes to modify an existing system of records, the HUD/HS–10, Home Equity Conversion Mortgage system. This notice provide a summary of the modified system of records. The system will be identified by a new naming convention ''HSG/HWAT.01'' that has been established by the Department to refer to a program component system. The system of records is revising its routine use category to balance the privacy interests of those entities requiring access to system records to allow HUD's Federal Housing Administration (FHA) to carry out its HECM program activities. The system also refines its sections for category of individual, and category of records to provide clarification of the types of records collected and maintained by the system. Additionally, the system contains personally identifiable information received from mortgagees and housing counseling agencies approved to administer FHA HECM program requirements. The information in the system includes (but is not limited to) individual level data regarding borrowers who participate in the HECM program: Name, title, property addresses, birthdates, Social Security Numbers, phone numbers and (dates of death, when applicable). In addition the information in the system includes (but is not limited to) business level data regarding the mortgagee that administers FHA HECM loans: banking information, Tax Identification Number, routing and accounts numbers, mortgagee reference number, and accounting data. The HERMIT system is expected to improve the overall effectiveness of the program operations by providing comprehensive insurance servicing, claims payments, notice servicing, accounting and reporting functionalities. The report of the system of records modification/deletion was submitted to the Office of Management and Budget (OMB), the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Government Reform pursuant to Paragraph 4c of Appendix l to OMB Circular No. A–130, ''Federal Agencies Responsibilities for Maintaining Records About Individuals,'' July 25, 1994 (59 FR 37914).

Authority: 5 U.S.C. 552a; 88 Stat. 1896; 42 U.S.C. 3535(d).

Dated: September 13, 2012.

Kevin Cooke,

Deputy Chief Information Officer.

HSG/HWAT.01

SYSTEM NAME:

Home Equity Reverse Mortgage Information Technology (HERMIT) Service Provider formerly HUD/HS–10, Home Equity Conversion System

SYSTEM LOCATION:

External hosting location at the following address: 21701 Filigree Ct., Building D, Ashburn, VA 20147; Housing and Urban Development (HUD) workstations at 451 Seventh Street SW., Washington, DC 20410; HUD National Servicing Center 2 West 2nd Street, Suite 400, Tulsa, OK 74103; HUD Atlanta Homeownership Center, Five Points Plaza 40 Marietta Street, Atlanta, GA 30303–2806; HUD Philadelphia Homeownership Center, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3389; HUD Denver Homeownership Center Processing & Underwriting—20th FL 1670 Broadway Denver, CO 80202; Santa Ana Homeownership Center, Santa Ana Federal Building, 34 Civic Center Plaza, Room 7015, Santa Ana, CA 92701–4003.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HECM mortgagees and HECM mortgagors for Home Equity Conversion Mortgages insured under HUD's HECM mortgage insurance program, and FHA-Approved Housing Counselors who participate in the HECM program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the HERMIT system are as follows:

(1) Insurance-in-Force (IIF)/ Premiums: HECM insurance-in-force and premium records which include PII data pertaining borrowers' full names, property addresses, birthdates, Social Security Numbers, phone numbers and dates of death; case-level details on the HECM housing counseling certificate, Maximum Claim Amount (MCA), property appraised values, initial and monthly mortgage insurance premiums (IMIP & MMIP), set asides, note interest rates and expected interest rates and case statuses and sub-case statuses; payment plan types, and other financial account data such as Principal Limits, monthly interest accruals, late charge and interest charge fees, historical transaction records for HECM cases, property taxes and hazard insurance amounts, business partners' banking information (routing and account numbers); and accounting data

including accounts receivable and payable due to and from HUD.

(2) HECM Claims: Borrowers' names, addresses, social security numbers; maximum claim amount, due and payable approvals; death notifications, deed-in-lieu; foreclosure actions, extension approvals, interest rates and account statuses; payment and other financial account data such as unpaid loan balances, interest accrued, service fees, expenses incurred for foreclosure and acquisition, protection and preservation, attorney fees, special assessments; disbursements for taxes, insurance, utilities, eviction fees, and any other miscellaneous disbursements; MIP, appraisals, closing costs; claims filed and paid; indemnifications and claim blocks; business partner banking information (Tax Identification Number, routing and account numbers), mortgagee reference number; accounting data including established accounts receivables and payables; and information for reporting and assumption of servicing activities in cases of investor claim or default.

(3) HECM Loan Servicing: Borrowers' and authorized contacts' names and addresses, birthdates, age, Social Security Numbers, phone numbers; email addresses; marital status, gender, preferred language, banking information (institutional information, routing, account numbers and account type) maximum loan amounts, premium collection, interest rates and account statuses; payment and other financial account data such as loan balance, loan history, interest accrued, fees incurred, claims filed and paid, real estate property information, property taxes and insurance amounts, accounting data including debits and credits to HUD accounts based on transaction events, vendor information; and information for reporting and assuming servicing activities in case of servicer or investor claim or default.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 255 of the National Housing Act of 1934 authorizes the FHA reverse mortgage program for the elderly, the Home Equity Conversion Mortgage (HECM) program (12 U.S.C.1715Z–20). The Housing and Community Development Act of 1987 (42 U.S.C. 3543—Sec. 3543) specifically provides authority to collect Social Security Numbers.

PURPOSES:

HERMIT provides FHA with a comprehensive service that integrates and automates five operations of the HECM program (insurance servicing; claims payment; notes servicing, accounting, and reporting). The HECM program promotes continued homeownership for the elderly by allowing elderly borrowers to access the equity in their homes while continuing to live in the property. HERMIT allows the Secretary to maintain the ''public trust'' over the HECM program by seamlessly, accurately and timely managing the HECM program in an automated environment. HERMIT allows HECM program personnel to collect and maintain the data necessary to support activities related to the endorsement of loans, including collection of initial and monthly premiums. The claims process includes the filing of claims for insurance benefits and disbursement of funds to lenders of loans insured under the HECM program. Servicing activities include maintaining the data necessary to support performance requirements of servicing for FHA insured and Secretary-held first and second mortgages. The major activities include acceptance of assignment and title review, servicing requests for HECM endorsed cases from Mortgagees (due and payable, short sale, over-allowables for preservation and protection costs, subordination extension requests and partial releases), accounting functions, collections according to the Fair Debt Collection Practices Act, disbursement of payment, annual recertification, foreclosure activities, bankruptcy activities, and compliance monitoring. The new HERMIT replacement system will permit HECM mortgagees to: (1) Interact with one, integrated HUD HECM system; (2) Interact with HUD's National Servicing Center (NSC) through a new, automated workflow process; and, (3) Replace manual claims filing processes with an online, automated claims filing procedure.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under subsection (b) of the Privacy Act of 1974, 5 U.S.C. 522a(b), other routine uses are as follows:

(1) To servicing mortgagee to give notice of miscalculations or other errors in subsidy computation, to pay claims, or for other servicing-related functions.

(2) To taxing authorities, insurance companies, homeowners associations or condominium associations for maintaining the property while HUD is the servicer of record to ensure property taxes are current.

(3) To the U.S. Department of the Treasury for collection and disbursement transactions (Pay.gov, ACH and check).

(4) To title insurance companies or financial institutions to allow HUD to respond to inquiries for payoff figures on HECM assigned loans.

(5) To recorders' offices for recording legal documents and responses to bankruptcy courts or other legal responses required during the servicing of the insured loan to allow HUD to release mortgage liens, respond to bankruptcies or deaths of mortgagors to protect the interest of the Secretary of HUD.

(6) To the Federal Bureau of Investigation (FBI) to investigate possible fraud revealed in the course of servicing efforts to allow HUD to protect the interest of the Secretary.

(7) To an Administrative Law Judge and to the interested parties to the extent necessary for conducting administrative proceedings where HUD is a party.

(8) To welfare agencies for fraud investigation to allow HUD to respond to state government inquiries when a HECM mortgagor is committed to a nursing home.

See also on HUD's privacy Web site, Appendix 1 for discretionary routine uses that may be applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic files are stored in case files on servers and backup files are stored on tapes. Electronic files are replicated at a disaster recovery offsite location in case of loss of computing capability or other emergency at the primary facility. HERMIT has no hard ''Paper'' copies.

SAFEGUARDS:

Access to electronic records are granted by user ID and password to users who have a need to know such records. In addition to the safeguards provided by access controls all electronic data is encrypted while stored on any systems media within HERMIT or in any transport mode. Servers are contained in a secured facility with 24x7 security guards including electronic access and surveillance capabilities (CCTV and recorders, motion detectors, hand geometry readers, fiber vault) at an offsite location. HERMIT has no hard ''Paper'' copies.

RETRIEVABILITY:

Name, SSN, identification number, home telephone number, personal email address, FHA Case Number and Mortgagee TIN.

RETENTION AND DISPOSAL:

Records are held in accordance with HUD's Records Disposition Schedules Handbook (2225.6) Appendix 20(Single Family Home Mortgage Insurance Program Records) and Appendix 21(Financial Management Information Systems. Paper records are not in use. Electronic records are held consistent with standards for paper records. Archival tape media is kept for 7 years and the tapes are in rotation. Tapes that are faulty and need to be disposed of follow HUD's IT Security Handbook (2400.25), pursuant to NIST SP 800–88 guidelines section 2.1.

SYSTEM MANAGERS AND ADDRESS:

Director, Office of Housing Finance and Budget; Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

NOTIFICATION AND ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about them, or those seeking access to such records, should address inquiries to Chief Privacy Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4156, Washington, DC 20410. (Attention: Capitol View Building, 4th Floor) Requestors must provide identity verification by providing two proofs of official identification. Your verification of identity must include your original signature and must be notarized.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR § 16. If additional information or assistance is needed, it may be obtained by contacting:

(i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location;

(ii) In relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

RECORD SOURCE CATEGORIES:

Mortgagors, mortgagees, taxing authorities, insurance companies and Housing counselors. The mortgagors and mortgagees collect the personal information from program participants and enters the information into the HUD the Single Family Computerized Home Underwriting Management System (CHUMs). The HERMIT system interfaces CHUMS for its information.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2012–24927 Filed 10–9–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Renewal of Information Collection: 1090–0007, American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Surveys

AGENCY: Office of the Secretary, National Business Center, Federal Consulting Group.

ACTION: Notice and request for comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Business Center, Department of the Interior announces that it has submitted a request for proposed extension of an information collection for the American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Surveys to the Office of Management and Budget (OMB), and requests public comments on this submission. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection request, but may respond after 30 days; therefore, public comments should be submitted to OMB by November 9, 2012, in order to be assured of consideration.

ADDRESSES: Send your written comments by facsimile to (202) 395–5806 or email (*OIRA_DOCKET@omb.eop.gov*) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for the Department of the Interior (OMB1090–0007) Desk Officer. Also, please send a copy of your comments to Federal Consulting Group, Attention: Richard Tate, 1849 C St. NW., MS 314, Washington, DC 20240–0001, or by facsimile to (202) 513–7686, or via email to *Richard_Tate@nbc.gov.* Individuals providing comments should reference Customer Satisfaction Surveys (OMB 1090–0007).

FOR FURTHER INFORMATION CONTACT: To request additional information or copies of the form(s) and instructions, please write to the Federal Consulting Group, Attention: Richard Tate, 1849 C St. NW., MS 314, Washington, DC 20240–0001, or call (202) 513–7655, or email to *Richard_Tate@nbc.gov.* To see a copy of the entire ICR submitted to OMB, go to: *http://www.reginfo.gov* and select Information Collection Review, Currently Under Review.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. The Office of the Secretary, National Business Center, Federal Consulting Group has submitted a request to OMB to renew its approval of this collection of information for three years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it is operating under a currently valid OMB control number. The OMB control number for this collection is 1090–0007. The control number will be displayed on the surveys used. For expeditious administration of the surveys, the expiration date will not be displayed on the individual instruments. Response is not required to obtain a benefit.

II. Data

(1) *Title:* ''Customer Satisfaction Surveys''.

OMB Control Number: 1090–0007.

Current Expiration Date: October 31, 2012.

Type of Review: Information Collection Renewal.

Affected Entities: Individuals and Households, Businesses and Organizations, and State, Local or Tribal Government.

Estimated annual number of respondents: Participation by Federal agencies in the ACSI is expected to vary as new customer segment measures are added or deleted. However, based on historical records, projected average estimates for the next three years are as follows:

Average Expected Annual Number of Customer Satisfaction Surveys: 125

Respondents: 43,750

Annual responses: 43,750

Frequency of responses: Once per survey.

(2) Annual reporting and recordkeeping burden:

Total annual reporting per response: 12.0 minutes.

Total number of estimated responses: 43,750.

Total annual reporting: 8,750 hours.

Note: it is expected that the first year

there will be approximately 100 surveys initiated, the second year 125 surveys initiated, and the third year 150 surveys initiated based on prior experience and expected growth in the program. These figures above represent an expected average per year over the three-year period.

(3) *Description of the need and use of the information:* The proposed renewal of this information collection activity provides a means to consistently assess, benchmark and improve customer satisfaction with Federal Government agency programs and/or services within the Executive Branch. The Federal Consulting Group of the Department of the Interior serves as the executive agent for this methodology and has partnered with the CFI Group and the American Customer Satisfaction Index (ACSI) to offer the ACSI to Federal government agencies.

The CFI Group, a leader in customer satisfaction and customer experience management, offers a comprehensive model that quantifies the effects of quality improvements on citizen satisfaction. The CFI Group has developed the methodology and licenses it to the American Customer Satisfaction Index, an independent organization which produces the American Customer Satisfaction Index (ACSI). This national indicator is developed for different economic sectors each quarter, which are then published in The Wall Street Journal. The ACSI was introduced in 1994 by Professor Claes Fornell under the auspices of the University of Michigan, the American Society for Quality (ASQ), and the CFI Group. It monitors and benchmarks customer satisfaction across more than 200 companies and many U.S. Federal agencies.

The ACSI is the only cross-agency methodology for obtaining comparable measures of customer satisfaction with Federal government programs and/or services. Along with other economic objectives—such as employment and growth—the quality of output (goods and services) is a part of measuring living standards. The ACSI's ultimate purpose is to help improve the quality of goods and services available to American citizens.

ACSI surveys conducted by the Federal Consulting Group are subject to the Privacy Act of 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 552a). The agency information collection is an integral part of conducting an ACSI survey. The contractor will not be authorized to release any agency information upon completion of the survey without first obtaining permission from the Federal Consulting Group and the participating agency. In no case shall any new system of records containing privacy information be developed by the Federal Consulting Group, participating agencies, or the contractor collecting the data. In addition, participating Federal agencies may only provide information used to randomly select respondents from among established systems of records provided for such routine uses.

There is no other agency or organization which is able to provide the information that is accessible through the surveying approach used in this information collection. Further, the information will enable Federal agencies to determine customer satisfaction metrics with discrimination capability across variables. Thus, this information collection will assist Federal agencies in improving their customer service in a targeted manner which will make best use of resources to improve service to the public.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on February 28, 2012 (77 FR 12073–74). No comments were received. This notice provides the public with an additional 30 days in which to comment on the proposed information collection activity.

III. Request for Comments

The Departments invite comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden of the collection and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information techniques.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the National Business Center, Federal Consulting Group by calling (202) 513–7655. A valid picture identification is required for entry into the Department of the Interior.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Ron Oberbillig,

Chief Operating Officer, Federal Consulting Group.

[FR Doc. 2012–24763 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2012–N078; BAC–4311–K9–S3]

Patuxent Research Refuge, Prince George's and Anne Arundel Counties, MD; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (we, the Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (CCP/EA) for Patuxent Research Refuge (Patuxent RR), located in Prince George's and Anne Arundel Counties, Maryland, for public review and comment. The draft CCP/EA describes our proposal for managing the refuge for the next 15 years.

Also available for public review and comment are the draft findings of appropriateness and draft compatibility determinations for uses to be allowed upon initial completion of the plan, if alternative B is selected. These are included as appendix C in the draft CCP/EA.

DATES: To ensure consideration, please send your comments no later than November 26, 2012. We will announce upcoming public meetings in local news media, via our project mailing list, and on our regional planning Web site: *http://www.fws.gov/northeast/planning/patuxent/ccphome.html.*

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. You may request hard copies or a CD–ROM of the documents.

Email: northeastplanning@fws.gov. Please include ''Patuxent RR Draft CCP'' in the subject line of the message.

Fax: Attention: Bill Perry, 413–253–8468.

U.S. Mail: Bill Perry, Natural Resource Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

In-Person Drop-off, Viewing, or Pickup: Call 301–497–5580 to make an appointment (necessary for view/pickup only) during regular business hours at Patuxent RR, 10901 Scarlet Tanager Loop, Laurel, MD 20708. For more information on locations for viewing or obtaining documents, see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Brad Knudsen, Refuge Manager, 301–437–5580 (phone), or Bill Perry, Planning Team Leader, 413–253–8688 (phone); *northeastplanning@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Patuxent RR. We started this process through a notice in the **Federal Register** (75 FR 12563; March 16, 2010).

Patuxent RR was established in 1936 by Executive Order by President Franklin D. Roosevelt ''to effectuate further the purposes of the Migratory Bird Conservation Act'' and ''as a wildlife experiment and research refuge.'' The total approved acquisition boundary encompasses 12,841 acres between Baltimore, Maryland, and Washington, DC—an area with one of the highest densities of development in the United States. Currently, about 10,000 of Patuxent RR's 12,841 acres are forest, but the refuge also contains grasslands, freshwater marshes, shrub and early successional forest, and open water. It provides important habitat for a variety of migratory birds of conservation concern. The refuge also offers unique opportunities for environmental education and interpretation in an urban setting and is home to the U.S. Geological Survey (USGS) Patuxent Wildlife Research Center, a leading international research institute for wildlife and applied environmental research.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Public Outreach

We started pre-planning for the Patuxent RR CCP in December 2009. In February 2010, we distributed our first newsletter and press release announcing our intent to prepare a CCP for the refuge. In February and March 2010, we had a formal public scoping period. The purpose of the public scoping period was to solicit comments from the community and other interested parties on the issues and impacts that should be evaluated in the draft CCP/EA. To help solicit public comments, we held two public meetings at the refuge during the formal public scoping period. Throughout the rest of the planning process, we have conducted additional outreach by participating in community meetings, events, and other public forums, and by requesting public input on managing the refuge and its programs. We received comments on topics such as the potential effects of climate change, habitat management, reforesting, environmental education programs, and other public uses of the refuge. We have considered and evaluated all of the comments we received and addressed them in various ways in the alternatives presented in the draft CCP/EA.

CCP Alternatives We Are Considering

During the public scoping process, we, the Maryland Department of Natural Resources, other governmental partners, and the public raised several issues. To address these issues, we developed and evaluated three alternatives in the draft CCP/EA. A full description of each alternative is in the draft CCP/EA. All alternatives include measures to control invasive species, monitor and abate diseases affecting wildlife and plant health, coordinate with USGS to house and support research efforts, protect cultural resources, continue existing projects managed by outside programs, and minimize impacts from the shooting ranges located on the refuge. There are also several actions that are common to both alternatives B and C. These include using green technology to update refuge buildings and grounds, constructing additional space for environmental education and interpretation classes, and collaborating with stakeholders on a redesign of the shooting ranges.

There are other actions that differ among the alternatives. The draft CCP/EA describes each alternative in detail and relates it to the issues and concerns that arose during the planning process. Below, we provide summaries for the three alternatives.

Alternative A (Current Management)

Alternative A (current management) satisfies the National Environmental Policy Act (40 CFR 1506.6(b)) requirement of a ''no action'' alternative, which we define as ''continuing current management.'' It describes our existing management priorities and activities, and serves as a baseline for comparing and contrasting alternatives B and C. It would maintain our present levels of approved refuge staffing and the biological and visitor programs now in place. We would continue to manage for and maintain a diversity of habitats, including forests, forested wetlands, pine-oak savannah, grasslands, and scrub-shrub on the refuge. The refuge would continue to provide an active visitor use program that supports environmental education and interpretation, hunting, fishing, and wildlife observation and photography.

Alternative B (Forest Restoration and Mixed Public Use)

This alternative is the Service-preferred alternative. It combines the

actions we believe would most effectively achieve the refuge's purposes, vision, and goals, and respond to the issues raised during the scoping period. It emphasizes the management of specific refuge habitats to support species of conservation concern in the Chesapeake Bay region. In particular, it emphasizes forest biodiversity and ecosystem function. This includes the restoration of a number of impoundments and grasslands to forested areas to support forest interior-dwelling bird species and other forest-dependent species. In addition, alternative B strives to promote wildlife-dependent public uses, while allowing for non-wildlife-dependent public uses. In particular, it promotes higher quality hunting and fishing programs; expands wildlife observation, viewing, and photography opportunities; and initiates new interpretive program and environmental education opportunities.

Alternative C (Maximize Forest Interior Restoration and Emphasize Wildlife-dependent Public Use Activities)

Alternative C would focus on maximizing interior forest habitat. This would require active management to restore a majority of impoundments and grasslands into forested areas that would support forest interior-dwelling species, in addition to other species of conservation concern. Alternative C also focuses on accommodating wildlife-dependent public uses while minimizing non-wildlife-dependent uses, particularly by expanding wildlife observation, viewing, and photography opportunities and reducing the number of special events and interpretive programming.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents at the following locations:

• *Our Web site: http://www.fws.gov/northeast/planning/patuxent/ccphome.html.*

Submitting Comments

We consider comments substantive if they:

• Question, with reasonable basis, the accuracy of the information in the document;

• Question, with reasonable basis, the adequacy of the EA;

• Present reasonable alternatives other than those presented in the EA; and/or

• Provide new or additional information relevant to the EA.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final CCP and, if appropriate, a finding of no significant impact.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 14, 2012.

Deborah Rocque,

Acting Regional Director, Northeast Region.

[FR Doc. 2012–24929 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–EA–2012–N234; FF09X60000–FVWF97920900000–XXX]

Sport Fishing and Boating Partnership Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a public meeting of the Sport Fishing and Boating Partnership Council (Council). A Federal advisory committee, the Council was created in part to foster partnerships to enhance public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating in the United States. This meeting is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: The meeting will take place Wednesday, November 7, 2012, from 8:30 a.m. to 5 p.m., and Thursday, November 8, 2012, from 8:30 a.m. to 1 p.m. (Central Standard Time). For deadlines and directions on registering to attend the meeting, submitting written material, and/or giving an oral presentation, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Texas A & M University—Corpus Christi, Harte Research Institute; 6300 Ocean Drive, Corpus Christi, TX 78412–5869.

FOR FURTHER INFORMATION CONTACT: Douglas Hobbs, Council Coordinator, 4401 North Fairfax Drive, Mailstop 3103–AEA, Arlington, VA 22203; telephone (703) 358–2336; fax (703) 358–2548; or email *doug_hobbs@fws.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Sport Fishing and Boating Partnership Council will hold a meeting.

Background

The Council was formed in January 1993 to advise the Secretary of the Interior, through the Director of the Service, on nationally significant recreational fishing, boating, and aquatic resource conservation issues. The Council represents the interests of the public and private sectors of the sport fishing, boating, and conservation communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council, appointed by the Secretary of the Interior, includes the Service Director and the president of the Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are directors from State agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, Native American tribes, aquatic resource outreach and education, and tourism. Background information on the Council is available at *http://www.fws.gov/sfbpc*.

Meeting Agenda

The Council will hold a meeting to consider:

• Finalizing the Council Strategic Work Plan for the 2012–2014 term.

• Issues regarding the Boating Infrastructure Grant Program, Clean Vessel Act Grant Program, and the Sport Fish Restoration Boating Access Program.

• The Rigs to Reefs Program and the Interior Department implementation of its ''Idle Iron'' policy for decommissioning and removing unused oil and gas production infrastructure.

• The on-going effort to assist the Service in crafting a strategic vision for its fishery and aquatic resource conservation efforts.

• An update on the activities of the Federal Interagency Council on Outdoor Recreation (FICOR) in implementing the America's Great Outdoors Initiative.

• An update from the Recreational Boating & Fishing Foundation on progress in implementing Council recommendations to improve the activities and operations of the Foundation.

• An update on the implementation of the National Ocean Policy.

• An update on activities of the Service's Wildlife and Sport Fish Restoration Program.

• Other miscellaneous Council business.

The final agenda will be posted on the Internet at *http://www.fws.gov/sfbpc*.

Public Input

If you wish to	Then you must contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than
Attend the meeting	Monday, October 29, 2012.
Submit written information or questions before the meeting for the council to consider during the meeting.	Monday, October 29, 2012.
Give an oral presentation during the meeting.	Monday, October 29, 2012.

Attendance

In order to attend this meeting, you must register by close of business on the dates listed above in ''Public Input.'' Please submit your name, time of arrival, email address, and phone number to the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Council to consider during the meeting. Written statements must be received by the date listed above in ''Public Input,'' so that the information may be made available to the Council for their consideration prior to this teleconference. Written statements must be supplied to the Council Coordinator in one of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation during the meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Coordinator, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting. To ensure an opportunity to speak during the public comment period of the meeting, members of the public must register with the Council Coordinator. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Coordinator up to 30 days subsequent to the meeting.

Meeting Minutes

Summary minutes of the meeting will be maintained by the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) and will be available for public inspection within 120 days of the meeting and will be posted on the Council's Web site at *http://www.fws.gov/sfbpc*.

Rowan W. Gould,

Director.

[FR Doc. 2012–24931 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2012–N242; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before November 9, 2012. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by November 9, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES.** Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES.** If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES.** The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address,

phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: La Coma Ranch, Inc., McAllen, TX; PRT–81989A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the scimitar-horned oryx (*Oryx dammah*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: La Coma Ranch, Inc., McAllen, TX; PRT–83021A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: K & R Ranch, Pearsall, TX; PRT–83017A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the scimitar-horned oryx (*Oryx dammah*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Bar H Bar Land & Cattle Co., Lampasas, TX; PRT–63871A

The applicant requests amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) to include the addax (*Addax nasomaculatus*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Bar H Bar Land & Cattle Co., Lampasas, TX; PRT–63872A

The applicant requests amendment to include the addax (*Addax nasomaculatus*) to their permit authorizing interstate and foreign commerce, export, and cull of excess from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Simon Ranch, LLC, Junction, TX; PRT–83803A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Simon Ranch, LLC, Junction, TX; PRT–83802A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess barasingha (*Rucervus duvaucelii*) and scimitar-horned oryx (*Oryx dammah*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ronald Rains, Roosevelt, TX; PRT–85530A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ronald Rains, Roosevelt, TX; PRT–85528A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Kirk Thor, Irving, TX; PRT–227200

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Burmont, Inc., Jacksboro, TX; PRT–84250A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), scimitar-horned oryx (*Oryx dammah*), Arabian oryx (*Oryx leucoryx*), addax (*Addax nasomaculatus*), dama gazelle (*Nanger dama*), and red lechwe (*Kobus leche*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Burmont, Inc., Jacksboro, TX; PRT–85525A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and red lechwe (*Kobus leche*), from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers

activities to be conducted by the applicant over a 5-year period.

Applicant: Zoological Society of Cincinnati, Cincinnati, OH; PRT–681252

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families
- Bovidae
- Felidae (*does not* include jaguar, margay or ocelot)
- Hominidae
- Hylobatidae
- Lemuridae
- Lorisidae
- Rhinocerotidae
- Gruidae
- Psittacidae (*does not* include thick-billed parrots)
- Boidae

Species
- Asian elephant (*Elephas maximus*)

Applicant: City of Idaho Falls, dba Tautphaus Park Zoo, Idaho Falls, ID; PRT–819063

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families
- Lemuridae
- Hylobatidae

Species
- Snow leopard (*Uncia uncia*)
- Amur tiger (*Panthera tigris altaica*)
- Cotton-top tamarin (*Saguinus oedipus*)
- Goeldi's marmoset (*Callimico goeldii*)
- Jackass penguin (*Spheniscus demersus*)
- Manchurian crane (*Grus japonensis*)

Applicant: Woodland Park Zoological, Seattle, WA; PRT–668695

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, genera and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families
- Felidae (does not include Jaguar, margay or ocelot)
- Hominidae
- Lemuridae
- Cebidae
- Bovidae
- Gruidae

Genus
- *Tragopan*

Species
- Asian tapir (*Tapirus indicus*)
- Lion-tailed macaque (*Macaca silenus*)
- Rothschild's starling (*Leucopsar rothschildi*)
- Komodo Island monitor (*Varanus komodoensis*)
- African dwarf crocodile (*Osteolaemus tetraspis*)
- Siamang gibbon (*Hylobates syndactylus*)
- Lesser slow loris (*Nycticebus pygmaeus*)
- Asian elephant (*Elephas maximus*)
- Pudu (*Pudu puda*)
- African wild dog (*Lycaon pictus*)
- Humboldt penguin (*Spheniscus humboldti*)
- Tracaja (*Podocnemis unifilis*)
- Aruba Island rattlesnake (*Crotalus unicolor*)
- Indian python (*Python molurus molurus*)
- Panamanian golden frog (*Atelopus zeteki*)

Applicant: Duke Lemur Center, Durham, NC; PRT–679042

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families
- Lemuridae
- Cheirogaleidae
- Indriidae
- Lepilemur
- Daubentoniidae

Applicant: Omaha's Henry Doorly Zoo, Omaha, NE; PRT–63260A

The applicant requests a permit to export live, captive-bred Mississippi gopher frog (*Rana capito sevosa*) for the purpose of enhancement of the survival of the species.

Applicant: Kevin Loewengruber, Southgate, MI; PRT–140165

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Phoenix Herpetological Society, Inc., Scottsdale, AZ; PRT–19818A

The applicant requests amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) to include crocodylidae and spotted pond turtle (*Geoclemys hamiltonii*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Willeke Wildlife Taxidermy, San Angelo, TX; PRT–79589A

The applicant requests a permit to export the sport-hunted trophy/trophies of one addax (*Addax nasomaculatus*) culled from a captive herd maintained in the state of Texas, for the purpose of enhancement of the survival of the species.

Applicant: Willeke Wildlife Taxidermy, San Angelo, TX; PRT–79587A

The applicant requests a permit to export the sport-hunted trophy/trophies of one scimitar-horned oryx (*Oryx dammah*) and one addax (*Addax nasomaculatus*) culled from a captive herd maintained in the state of Texas, for the purpose of enhancement of the survival of the species.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Johnny Rutherford, Houston, TX; PRT–83842A

Applicant: Gene Day, Lubbock, TX; PRT–86415A

B. Endangered Marine Mammals and Marine Mammals

Applicant: Sea World Parks & Entertainment, Inc., Orlando, FL; PRT–83724A

The applicant requests a permit to import one of two female walruses (*Odobenus rosmarus*) that were captive bred at and would be exported by Kamogawa Sea World, Kamogawa, and Chiba, Japan; for the purpose of public display at Sea World San Diego.

Concurrent with publishing this notice in the **Federal Register,** we are forwarding copies of the above applications to the Marine Mammal

Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–24913 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW159617]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW159617, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from CEP–M Purchase, LLC, for competitive oil and gas lease WYW159617 for land in Campbell County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW159617 effective July 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–24912 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW159206]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW159206, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from CEP–M Purchase, LLC, for competitive oil and gas lease WYW159206 for land in Campbell County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW159206 effective July 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–24910 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW145566]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW145566, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from CEP–M Purchase, LLC, for competitive oil and gas lease WYW145566 for land in Campbell County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW145566 effective July 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid

lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–24904 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–923–1310–FI; WYW145583]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease WYW145583, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of the Mineral Leasing Act of 1920, as amended, the Bureau of Land Management (BLM) received a petition for reinstatement from CEP–M Purchase, LLC, for competitive oil and gas lease WYW145583 for land in Campbell County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Julie L. Weaver, Chief, Fluid Minerals Adjudication, at 307–775–6176. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre or fraction thereof, per year and 16–2/3 percent, respectively. The lessee has paid the required $500 administrative fee and $159 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the BLM is proposing to reinstate lease WYW145583 effective July 1, 2011, under the original terms and conditions of the lease and the increased rental and royalty rates cited above. The BLM has not issued a valid lease to any other interest affecting the lands.

Julie L. Weaver,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. 2012–24903 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–10631; 9475–0764–422]

Final Environmental Impact Statement for Stehekin River Corridor Implementation Plan, Lake Chelan National Recreation Area, North Cascades National Park Service Complex, Chelan County, WA

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement for Stehekin River Corridor Implementation Plan, Lake Chelan National Recreation Area.

SUMMARY: The National Park Service, in cooperation with the Federal Highway Administration, has prepared a Final Environmental Impact Statement (FEIS) for the Stehekin River Corridor Implementation Plan (SRCIP) and Lake Chelan National Recreation Area Land Protection Plan (LPP). The SRCIP/FEIS identifies and analyzes five alternatives for sustainable management of park facilities (e.g., roads, bridges, trails, maintenance yard) in response to increased flooding and erosion issues in the lower Stehekin River watershed. When approved, the SCRIP will implement several actions called for in the 1995 General Management Plan (GMP), including removal of park maintenance and residential facilities from floodplain areas, construction of recreational facilities and relocation of segments of the primary eastern access road to the adjoining North Cascades National Park, and protection of water quality and scenery along the lower Stehekin River. The updated Lake Chelan National Recreation Area LPP revises acquisition priorities and is intended to accommodate willing sellers of threatened private property.

SUPPLEMENTARY INFORMATION: Recent major floods and resultant channel changes on the lower Stehekin River have intensified flood and erosion threats to NPS facilities and are impacting natural resources within Lake Chelan NRA. The three largest recorded Stehekin River floods have occurred within the past 16 years, and in response, the NPS has spent more than $3 million to protect public roads and facilities and to repair flood damage. Roads, visitor facilities and private development once thought to be safe from the river are now threatened.

Because of the current impacts and future risks associated with these unprecedented conditions, the primary purposes of the actions proposed within the SRCIP are to: (1) Sustainably operate and maintain NPS administrative facilities, public access (roads and trails), and campgrounds; (2) protect water quality, scenic values, habitat, and natural processes of the Stehekin River; and (3) partner with the Stehekin Community to provide services, facilities and experiences for visitors. The SRCIP is needed to (1) respond to the increased magnitude and frequency of flooding, (2) implement and clarify 1995 GMP guidance, (3) sustain public facilities while protecting natural resources, (4) manage limited funding, and to (5) respond to private landowners.

The SRCIP/FEIS describes and analyzes five management alternatives, including continuation of current management actions. This includes a new Alternative 5, which is derived from modifications to Alternative 2 as presented in the Draft EIS (which evaluated four alternatives), based on responses to public comments. All five alternatives have in common certain actions previously identified in the 1995 GMP, including relocation of the NPS maintenance area and some housing out of the channel migration zone; resurfacing of the road from Stehekin Landing to Milepost 9.2 (just above Stehekin Valley Ranch), including paving from Harlequin Bridge to Milepost 9.2; and construction of the Lower Valley Trail. Alternatives 2–5 would also add new campsites at different locations to supplement sites at Harlequin Bridge that are seasonally flooded.

Alternative 1 (continue current management) and Alternative 4 would retain the Stehekin Valley Road access through McGregor Meadows. To protect the road from flood damage and to provide access to private residences, about 5,600 cubic yards of fill would be placed in the floodplain. Under both alternatives, new rock structures (barbs) could be placed along the river.

Alternatives 2 and 3 would relocate 1.9 and 1.75 miles, respectively, of the Stehekin Valley Road from the floodplain in McGregor Meadows, while retaining private access to the area via a 0.75-mile-long reduced maintenance road. Alternatives 2, 3 and 5 differ in where the reroute rejoins to the existing road, with the Alternative 2 and 5 alignments outside of the channel

migration zone and Alternative 3 partially within it near the Lower Field. Because of the reroute, implementation of Alternatives 2 or 5 would close the shooting range near the Lower Field. Alternatives 2, 3 and 5 would install roughly half as many rock structures (barbs) compared to Alternatives 1 and 4.

Alternatives 2–5 would revise the Lake Chelan NRA Land Protection Plan. Alternatives 2, 3 and 5 would focus more on exchange and acquisition of properties threatened by the river (provided there are willing sellers), and would cluster future development in areas outside of the channel migration zone. The 1995 LPP placed a higher value on scenic resources along the Stehekin Valley Road. In Alternative 4, less emphasis would be placed on exchange and acquisition priorities in the floodplain, and therefore far fewer private parcels would be high priority for purchase or exchange. Alternative 5 focuses on exchange/acquisition in the most vulnerable areas threatened by the river and introduces two new criteria for prioritizing potential exchange/acquisition lands, including scenic resources and threats within debris flow hazard zones.

Decision Process: Not sooner than 30 days from the date of publication in the **Federal Register** by the Environmental Protection Agency of its notice of filing of the Final EIS, a Record of Decision for the selected SRCIP alternative will be prepared. Because this is a delegated EIS, the official responsible for the final decision is the Regional Director, Pacific West Region; subsequently the official responsible for implementation of the approved Stehekin River Corridor Implementation Plan is the Superintendent, North Cascades National Park Service Complex.

Dated: September 26, 2012.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 2012–24924 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–T6–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–10630; 9530–1000–SZM]

Final Environmental Impact Statement for Cattle Point Road Relocation, San Juan Island National Historical Park, San Juan County, Washington

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement for Cattle Point Road Relocation, San Juan Island National Historical Park.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), and the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the National Park Service (NPS) and the Federal Highway Administration (FHWA), in cooperation with San Juan County, Washington and the Washington State Department of Natural Resources, have prepared a Final Environmental Impact Statement (Final EIS) for alternatives designed to respond to coastal bluff erosion that threatens a segment of the Cattle Point Road located in San Juan Island National Historical Park (Park), Washington. The Final EIS identifies and analyzes three action alternatives for realignment of the road through the park for use by residents and visitors traveling to the east end of the Cattle Point peninsula. The potential environmental consequences of these alternatives (and a no-action alternative which would continue current road management), and appropriate measures to minimize or avoid harm, are identified and analyzed.

Background: A 500-foot long segment of the Cattle Point Road, which terminates on the southeastern tip of San Juan Island, is threatened by coastal erosion at the base of the slope traversed by the road. This road passes through the Park and serves residences on a peninsular area of the island known as Cattle Point, as well as providing public access to the Cattle Point Natural Resource Conservation Area, managed by the Washington Department of Natural Resources (DNR). If erosion continues unabated, the roadway eventually may fail, disrupting vehicular access to these areas. The road is currently maintained by San Juan County (County); the project area of potential effect is primarily within the Park. The entire Park is listed on the National Register of Historic Places as a National Historic Landmark.

A Notice of Intent to begin the conservation planning and environmental impact analysis for the project was published in the **Federal Register** on February 6, 2004. Public engagement was initiated through a newsletter and news release, followed by two public meetings held February 18, 2004, on San Juan Island. Project team members presented information and gathered feedback and ideas on preliminary alternatives and potential environmental issues. Approximately 30 public comments were received during the scoping period ending March 19, 2004. A Scoping Report was prepared which described the range of potential alternatives identified for more detailed analysis, as well as alternatives dismissed from further consideration (including armoring the base of the slope in lieu of road realignment options). The Scoping Report included comments and agency responses as appendices. On June 17, 2004, the Scoping Report was issued, and a notice posted on the Park Web site announced availability of the document. Throughout 2005–2006 newsletters and press releases summarizing progress on preparation of the EIS were distributed, and the County and other agencies were periodically updated. The Washington State Historic Preservation Officer provided concurrence with a determination of No Adverse Effect on June 23, 2009.

The Notice of Availability of the Draft EIS was published in the **Federal Register** on September 7, 2010. Public engagement was initiated through wide distribution of a newsletter. An article regarding pending release of the Draft EIS was published September 1, 2010, in the Journal of the San Juan Islands. A public open house was hosted by the Park in the town of Friday Harbor on October 26, 2010 (approximately three dozen persons attended). During the 60 day public comment period, 40 comment letters were received (23 by mail and 17 were submitted at the open house); of this total, seven were from agencies and organizations, and the remainder were received from individuals. No substantially new information was received.

Proposal and Alternatives: Alternative A: No Action—The existing use, maintenance, and management associated with the road would continue without change. This alternative provides a baseline of current conditions to aid comparison and analysis of the action alternatives. Unless current management changes, erosion eventually could cause the road to fail, disrupting vehicular access to residential properties in the Cattle Point Estates and Cape San Juan neighborhoods and to public lands east of the eroding bluff. Since measurements began in 2002, erosion has moved approximately 14 feet closer to the guard rail and is currently 32 feet from the guard rail at its closest point. The continued life span of the road is difficult to predict, however large storm events could potentially make the road unsafe in a few years.

Life expectancy (relative to coastal erosion) of each of the three action alternatives is estimated at approximately 100 years. *Alternative C:* Long Tunnel on Minor Realignment

involves a short realignment (2,830 feet) relatively low on the slope of Mt. Finlayson. Sixteen hundred feet of the realignment would be within a bored tunnel. Maximum slope would be 7% gradient. *Alternative D:* Mid-Slope Alignment with Short Tunnel involves mid-slope realignment to the north of the existing road, utilizing a short tunnel near the ridge line of Mt. Finlayson. Realignment length would be 4,700 feet, 775 feet of which would be within the tunnel. Maximum slope would be 8% gradient.

The ''agency preferred'' alternative is *Alternative B:* Hybrid Mid-Slope Realignment. This involves mid-slope realignment to the north of the existing road, traversing the south-facing slope of Mt. Finlayson. At its highest point, this alignment curves slightly south of the Mt. Finlayson summit. The approximately 4,950 foot long realignment would be entirely on the surface (no tunnel), with a short slope of 10.5% gradient on the eastern end. This also is deemed to be the ''environmentally preferred'' course of action.

Not sooner than 30 days after publication by the Environmental Protection Agency of its notice of filing of the Final EIS in the **Federal Register**, a Record of Decision will be prepared. Because this is a delegated EIS, the official responsible for the NPS decision is the Regional Director, Pacific West Region. Subsequently the official responsible for implementation of the approved road relocation project is the Superintendent, San Juan Island National Historical Park.

Dated: September 26, 2012.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 2012–24923 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–MS–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0176]

Information Collection: Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf; Proposed Collection for OMB Review; Comment Request

ACTION: 60-day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Ocean Energy Management (BOEM) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under ''Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf.''

DATES: Submit written comments by December 10, 2012.

ADDRESSES: Please send your comments on this ICR to the BOEM Information Collection Clearance Officer, Arlene Bajusz, Bureau of Ocean Energy Management, 381 Elden Street, HM–3127, Herndon, Virginia 20170 (mail); or *arlene.bajusz@boem.gov* (email); or 703–787–1209 (fax). Please reference ICR 1010–0176 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Office of Policy, Regulations, and Analysis at (703) 787–1025 to request additional information about this ICR or copies of the referenced forms.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1010–0176.

Title: 30 CFR Part 585, Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf.

Forms: BOEM–0002, BOEM–0003, BOEM–0004, BOEM–0005, BOEM–0006.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to issue leases, easements, or rights-of-way on the OCS for activities that produce or support production, transportation, or transmission of energy from sources other than oil and gas (renewable energy). Specifically, subsection 8(p) of the OCS Lands Act, as amended by section 388 of the Energy Policy Act of 2005 (Pub. L. 109–58), directs the Secretary of the Interior to issue any necessary regulations to carry out the OCS renewable energy program. The Secretary delegated this authority to the Bureau of Ocean Energy Management (BOEM). The BOEM has issued regulations for OCS renewable energy activities at 30 CFR Part 585; this notice concerns the reporting and recordkeeping elements required by these regulations.

Respondents operate commercial and noncommercial technology projects that include installation, construction, operation and maintenance, and decommissioning of offshore facilities, as well as possible onshore support facilities. The BOEM must ensure that these activities and operations on the OCS are performed in a safe and pollution-free manner, do not interfere with the rights of other users on the OCS, and balance the protection and development of OCS resources. Therefore, BOEM needs information concerning the proposed activities, facilities, safety equipment, inspections and tests, and natural and manmade hazards near the site, as well as assurance of fiscal responsibility.

The BOEM uses forms to collect some information to ensure proper and efficient administration of OCS renewable energy leases and grants and to document the financial responsibility of lessees and grantees. Forms BOEM–0002, BOEM–0003, BOEM–0004, and BOEM–0006 are used by renewable energy entities on the OCS to designate an operator and to assign or relinquish a lease or grant. Form BOEM–0005 is used to procure and submit a bond for the purpose of meeting financial assurance requirements as set forth in the regulations. The BOEM maintains the submitted forms as official lease and grant records pertaining to operating responsibilities, ownership, and financial responsibility.

We will protect information considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 585.113, addressing disclosure of data and information to be made available to the public and others. No items of a sensitive nature are collected. Responses are mandatory or required to obtain a benefit.

Frequency: On occasion or annually.

Description of Respondents: Companies interested in renewable energy-related uses on the OCS and holders of leases and grants under 30 CFR Part 585.

Estimated Reporting and Recordkeeping Hour Burden: The currently approved annual reporting burden for this collection is 31,124 hours. The following table details the individual components and respective hour burden estimates of this ICR.

30 CFR 585	Reporting and recordkeeping requirement [1]	Hour burden
		Non-hour cost burden
Subpart A—General Provisions		
102; 105; 110	These sections contain general references to submitting comments, requests, applications, plans, notices, reports, and/or supplemental information for BOEM approval—burdens covered under specific requirements.	0.
102(e); 203, 231(e); 326	State and local governments enter into task force or joint planning or coordination agreement with BOEM.	1.
103; 904; 910	Request general departures not specifically covered elsewhere in part 585	2.
105(c)	Make oral requests or notifications and submit written follow up within 3 business days not specifically covered elsewhere in part 585.	1.
106; 107; 213(e); 230(f); 302(a); 408(b)(7); 409(c); 1005(d); 1007(c); 1013(b)(7).	Submit evidence of qualifications to hold a lease or grant; submit required and supporting information (electronically, if required).	2.
106(b)(1)	Request exception from exclusion or disqualification from participating in transactions covered by Federal non-procurement debarment and suspension system.	1.
106(b)(2), (3); 225; 527(c); 705(c)(2); 1016.	Request reconsideration and/or hearing. Requirement not considered IC under 5 CFR 1320.3(h)(9).	0.
108; 530(b)	Notify BOEM within 3 business days after learning of any action filed alleging respondent is insolvent or bankrupt.	1.
109	Notify BOEM in writing of merger, name change, or change of business form no later than 120 days after earliest of either the effective date or filing date. Requirement not considered IC under 5 CFR 1320.3(h)(1).	0.
111	Within 30 days of receiving bill, submit processing fee payments for BOEM document or study preparation to process applications and other requests.	0.5. $4,000.
111(b)(2), (3)	Submit comments on proposed processing fee or request approval to perform or directly pay contractor for all or part of any document, study, or other activity, to reduce BOEM processing costs.	2.
111(b)(3)	Perform, conduct, develop, etc., all or part of any document, study, or other activity; and provide results to BOEM to reduce BOEM processing fee.	19,000.
111(b)(3)	Pay contractor for all or part of any document, study, or other activity, and provide results to BOEM to reduce BOEM processing costs.	$950,000.
111(b)(7); 118(a); 436(c)	Appeal BOEM estimated processing costs, decisions, or orders pursuant to 30 CFR 590. Exempt under 5 CFR 1320.4(a)(2), (c).	0.
113(b)	Respond to the Freedom of Information Act release schedule	4.
115(c)	Request approval to use later edition of a document incorporated by reference or alternative compliance.	1.
116	The Director may occasionally request information to administer and carry out the offshore renewable energy program via **Federal Register** Notices.	4.
118(c); 225(b)	Within 15 days of bid rejection, request reconsideration of bid decision or rejection. Requirement not considered IC under 5 CFR 1320.3(h)(9).	0.
Subpart B—Issuance of OCS Renewable Energy Leases		
200; 224; 231; 235; 236; 238	These sections contain references to information submissions, approvals, requests, applications, plans, payments, etc., the burdens for which are covered elsewhere in part 585.	0.
210; 211(a–c); 212 thru 216	Submit nominations and general comments in response to **Federal Register** notices on Request for Interest in OCS Leasing, Call for Information and Nominations (Call), Area Identification, and Notices of Sale. Includes industry, State & local governments.	Not considered IC as defined in 5 CFR 1320.3(h)(4).
	Submit comments and required information in response to **Federal Register** notices on Request for Interest in OCS Leasing, Call for Information and Nominations (Call), Area Identification, and Notices of Sale. Includes industry, State & local governments.	4.
211(d); 216; 220 thru 223; 231(c)(2).	Submit bid, payments, and required information in response to **Federal Register** Final Sale Notice.	5.
224	Within 10 business days, execute 3 copies of lease form and return to BOEM with required payments, including evidence that agent is authorized to act for bidder; if applicable, submit information to support delay in execution.	1.
230; 231(a)	Submit unsolicited request and acquisition fee for a commercial or limited lease.	5.
231(b)	Submit comments in response to **Federal Register** notice re interest of unsolicited request for a lease.	4.
231(g)	Within 10 business days of receiving lease documents, execute lease; file financial assurance and supporting documentation.	2.
231(g)	Within 45 days of receiving lease copies, submit rent and rent information. Burdens covered by information collections approved for ONRR 30 CFR Chapter XII.	0.

30 CFR 585	Reporting and recordkeeping requirement [1]	Hour burden
		Non-hour cost burden
235(b); 236(b)	Request additional time to extend preliminary or site assessment term of commercial or limited lease, including revised schedule for SAP, COP, or GAP submission.	1.
237(b)	Request lease be dated and effective 1st day of month in which signed	1.
Subpart C—ROW Grants and RUE Grants for Renewable Energy Activities		
306; 309; 315; 316	These sections contain references to information submissions, approvals, requests, applications, plans, payments, etc., the burdens for which are covered elsewhere in part 585.	
302(a); 305; 306	Submit copies, in format specified, of request for a new or modified ROW or RUE and required information, including qualifications to hold a grant.	5.
307; 308(a)(1)	Submit information in response to **Federal Register** notice of proposed ROW or RUE grant area or comments on notice of grant auction.	4.
308(a)(2), (b); 315; 316	Submit bid and payments in response to **Federal Register** notice of auction for a ROW or RUE grant.	5.
309	Submit decision to accept or reject terms and conditions of noncompetitive ROW or RUE grant.	2.
Subpart D—Lease and Grant Administration		
400; 401; 402; 405; 409; 416, 433.	These sections contain references to information submissions, approvals, requests, applications, plans, payments, etc., the burdens for which are covered elsewhere in part 585.	0.
401(b)	Take measures directed by BOEM in cessation order and submit reports in order to resume activities.	100.
405(d)	Submit written notice of change of address. Requirement not considered IC under 5 CFR 1320.3(h)(1).	0.
405(e); Form BOEM–0006	If designated operator (DO) changes, notify BOEM and identify new DO for BOEM approval.	1.
408 thru 411; Forms BOEM–0002 and BOEM–0003.	Within 90 days after last party executes a transfer agreement, submit copies, in format specified, of lease or grant assignment application, including originals of each instrument creating or transferring ownership of record title, eligibility and other qualifications; and evidence that agent is authorized to execute assignment.	0.5.
415(a)(1); 416; 420(a), (b); 428(b).	Submit request for suspension and required information/payment no later than 90 days prior to lease or grant expiration.	10.
417(b)	Conduct and, if required, pay for site-specific study to evaluate cause of harm or damage; and submit copies, in format specified, of study and results.	100. $950,000.
425 thru 428; 652(a); 235(a), (c).	Request lease or grant renewal no later than 180 days before termination date of your limited lease or grant, or no later than 2 years before termination date of operations term of commercial lease. Submit required information.	6.
435; 658(c)(2); Form BOEM–0004.	Submit copies, in format specified, of application to relinquish lease or grant	1.
436; 437	Provide information for reconsideration of BOEM decision to contract or cancel lease or grant area. Requirement not considered IC under 5 CFR 1320.3(h)(9).	0.
Subpart E—Payments and Financial Assurance Requirements		
An * indicates the primary cites for providing bonds or other financial assurance, and the burdens include any previous or subsequent references throughout part 585 to furnish, replace, or provide additional bonds, securities, or financial assurance (including riders, cancellations, replacements). This subpart contains references to other information submissions, approvals, requests, applications, plans, etc., the burdens for which are covered elsewhere in part 585. In the future, BOEM may require electronic filing of submissions.		0.
500 thru 509; 1011	Submit payor information, payments and payment information, and maintain auditable records according to ONRR regulations or guidance. Burdens covered by information collections approved for ONRR 30 CFR Chapter XII.	0.
506(c)(4)	Submit documentation of the gross annual generation of electricity produced by the generating facility on the lease—use same form as authorized by the EIA. (Burden covered under DOE/EIA OMB Control Number 1905–0129 to gather info and fill out form. BOEM's burden is for submitting a copy).	10 min.
510; 506(c)(3)	Submit application and required information for waiver or reduction of rental or other payment.	1.
* 515; 516; 525(a) thru (f)	Execute and provide $100,000 minimum lease-specific bond or other approved security; or increase bond level if required.	1.

30 CFR 585	Reporting and recordkeeping requirement [1]	Hour burden
		Non-hour cost burden
* 516(a)(2), (3), (b), (c); 517; 525(a) thru (f).	Execute and provide commercial lease supplemental bonds in amounts determined by BOEM.	1.
516(a)(4); 521(c)	Execute and provide decommissioning bond or other financial assurance; schedule for providing the appropriate amount.	1.
517(c)(1)	Submit comments on proposed adjustment to bond amounts	1.
517(c)(2)	Request bond reduction and submit evidence to justify	5.
* 520; 521; 525(a) thru (f); Form BOEM–0005.	Execute and provide $300,000 minimum limited lease or grant-specific bond or increase financial assurance and required information.	1.
525(g)	Surety notice to lessee or ROW/RUE grant holder and BOEM within 5 business days after initiating insolvency or bankruptcy proceeding, or Treasury decertifies surety.	1.
* 526; Form BOEM–0005	In lieu of surety bond, pledge other types of securities, including authority for BOEM to sell and use proceeds, and submit required information.	2.
526(c)	Provide annual certified statements describing the nature and market value, including brokerage firm statements/reports.	1.
* 527; 531	Demonstrate financial worth/ability to carry out present and future financial obligations, annual updates, and related or subsequent actions/records/reports, etc.	10.
528	Provide third-party indemnity; financial information/statements; additional bond info; executed guarantor agreement and supporting information/documentation/agreements.	10.
528(c)(6); 532(b)	Guarantor/Surety requests BOEM terminate period of liability and notifies lessee or ROW/RUE grant holder, etc.	1.
* 529	In lieu of surety bond, request authorization to establish decommissioning account, including written authorizations and approvals associated with account.	2.
530	Notify BOEM promptly of lapse in bond or other security/action filed alleging lessee, surety or guarantor et al is insolvent or bankrupt.	1.
533(a)(2)(ii), (iii)	Provide agreement from surety issuing new bond to assume all or portion of outstanding liabilities.	3.
536(b)	Within 10 business days following BOEM notice, lessee, grant holder, or surety agrees to and demonstrates to BOEM that lease will be brought into compliance.	16.
Subpart F—Plans and Information Requirements		
Two ** indicate the primary cites for Site Assessment Plans (SAPs), Construction and Operations Plans (COPs), and General Activities Plans (GAPs); and the burdens include any previous or subsequent references throughout part 585 to submission and approval. This subpart contains references to other information submissions, approvals, requests, applications, plans, etc., the burdens for which are covered elsewhere in part 585.		0.
** 600(a); 601(a), (b); 605 thru 614; 810.	Within time specified after issuance of a competitive lease or grant, or within time specified after determination of no competitive interest, submit copies, in format specified, of SAP, including information to assist BOEM to comply with NEPA/CZMA such as hazard info, air quality, SEMS, and all required information, certifications, requests, etc.	240.
** 600(b); 601(c), (d)(1); 606(b); 618; 620 thru 629; 632; 633; 810.	If requesting an operations term for commercial lease, within time specified before the end of site assessment term, submit copies, in format specified, of COP, or FERC license application, including information to assist BOEM to comply with NEPA/CZMA such as hazard info, air quality, SEMS, and all required information, surveys and/or their results, reports, certifications, project easements, supporting data and information, requests, etc.	1,000.
** 600(c); 601(a), (b); 640 thru 648; 651; 810.	Within time specified after issuance of a competitive lease or grant, or within time specified after determination of no competitive interest, submit copies, in format specified, of GAP, including information to assist BOEM to comply with NEPA/CZMA such as hazard info, air quality, SEMS, and all required information, surveys and reports, certifications, project easements, requests, etc.	240.
** 601(d)(2); 622; 628(f); 632; 634; 658(c)(3); 907.	Submit revised or modified COPs, including project easements, and all required additional information.	50.
602 [2]	Until BOEM releases financial assurance, respondents must maintain, and provide to BOEM if requested, all data and information related to compliance with required terms and conditions of SAP, COP, or GAP.	2.
** 613(a), (d), (e); 617	Submit revised or modified SAPs and required additional information	50.
612; 647	Submit copy of SAP or GAP consistency certification and supporting documentation.	1.
615(a)	Notify BOEM in writing within 30 days of completion of construction and installation activities under SAP.	1.
615(b)	Submit annual report summarizing findings from site assessment activities	30.
615(c)	Submit annual, or at other time periods as BOEM determines, SAP compliance certification, effectiveness statement, recommendations, reports, supporting documentation, etc.	40.

30 CFR 585	Reporting and recordkeeping requirement [1]	Hour burden
		Non-hour cost burden
617(a)	Notify BOEM in writing before conducting any activities not approved, or provided for, in SAP; provide additional information if requested.	10.
627(c)	Submit oil spill response plan as required by BSEE 30 CFR part 254. Burden covered under BSEE 1014–0007.	0.
631	Request deviation from approved COP schedule	2.
633(b)	Submit annual, or at other time periods as BOEM determines, COP compliance certification, effectiveness statement, recommendations, reports, supporting documentation, etc.	80.
634(a)	Notify BOEM in writing before conducting any activities not approved or provided for in COP, and provide additional information if requested.	10.
635	Notify BOEM any time commercial operations cease without an approved suspension.	1.
636(a)	Notify BOEM in writing no later than 30 days after commencing activities associated with placement of facilities on lease area.	1.
636(b)	Notify BOEM in writing no later than 30 days after completion of construction and installation activities.	1.
636(c)	Notify BOEM in writing at least 7 days before commencing commercial operations.	1.
** 642(b); 648; 655; 658(c)(3)	Submit revised or modified GAPs and required additional information	50.
651	Before beginning construction of OCS facility described in GAP, complete survey activities identified in GAP and submit initial findings. (This only includes the time involved in submitting the findings; it does not include the survey time as these surveys would be conducted as good business practice.).	30.
653(a)	Notify BOEM in writing within 30 days of completing installation activities under the GAP.	1.
653(b)	Submit annual report summarizing findings from activities conducted under approved GAP.	30.
653(c)	Submit annual, or at other time periods as BOEM determines, GAP compliance certification, recommendations, reports, etc.	40.
655(a)	Notify BOEM in writing before conducting any activities not approved or provided for in GAP, and provide additional information if requested.	10.
656	Notify BOEM any time approved GAP activities cease without an approved suspension.	1.
658(c)(1)	If after construction, cable or pipeline deviate from approved COP or GAP, notify affected lease operators and ROW/RUE grant holders of deviation and provide BOEM evidence of such notices.	3.
659	Determine appropriate air quality modeling protocol, conduct air quality modeling, and submit 3 copies of air quality modeling report and 3 sets of digital files as supporting information to plans.	70.
Subpart G—Facility Design, Fabrication, and Installation		
Three *** indicate the primary cites for the reports discussed in this subpart, and the burdens include any previous or subsequent references throughout part 585 to submitting and obtaining approval. This subpart contains references to other information submissions, approvals, requests, applications, plans, etc., the burdens for which are covered elsewhere in part 585.		0.
*** 700(a)(1), (b), (c); 701	Submit Facility Design Report, including copies, in format specified, of cover letter, certification statement, and all required information (1–3 paper or electronic copies as specified).	200.
*** 700(a)(2); (b), (c); 702	Submit copies, in format specified, of Fabrication and Installation Report, certification statement and all required information.	160.
705(a)(3); 707; 712	Certified Verification Agent (CVA) conducts independent assessment of the facility design and submits all reports/certifications to lessee or grant holder and BOEM—interim reports if required, and copies, in format specified, of final reports.	100 interim report. 100 final report.
705(a)(3); 708; 709; 710; 712	CVA conducts independent assessments/inspections on the fabrication and installation activities, informs lessee or grant holder if procedures are changed or design specifications are modified; and submits all reports/certifications to lessee or grant holder and BOEM—interim reports if required, and copies, in format specified, of final reports.	100 interim report. 100 final report.
*** 703; 705(a)(3); 712; 815	CVA/project engineer monitors major project modifications and repairs and submits all reports/certifications to lessee or grant holder and BOEM—interim reports if required, and copies, in format specified, of final reports.	20 interim report. 15 final report.
705(c)	Request waiver of CVA requirement in writing; lessee must demonstrate standard design and best practices.	40.
706	Submit for approval with SAP, COP, or GAP, initial nominations for a CVA or new replacement CVA nomination, and required information.	16.

30 CFR 585	Reporting and recordkeeping requirement [1]	Hour burden
		Non-hour cost burden
708(b)(2)	Lessee or grant holder notify BOEM if modifications identified by CVA/project engineer are accepted.	1.
709(a)(14); 710(a)(2), (e) [2]	Make fabrication quality control, installation towing, and other records available to CVA/project engineer for review (retention required by § 585.714).	1.
713	Notify BOEM within 10 business days after commencing commercial operations.	1.
714 [2]	Until BOEM releases financial assurance, compile, retain, and make available to BOEM and/or CVA the as-built drawings, design assumptions/analyses, summary of fabrication and installation examination records, inspection results, and records of repairs not covered in inspection report. Record original and relevant material test results of all primary structural materials; retain records during all stages of construction.	100.
Subpart H—Environmental and Safety Management, Inspections, and Facility Assessments for Activities Conducted Under SAPs, COPs, and GAPs		
801(c), (d)	Notify BOEM if endangered or threatened species, or their designated critical habitat, may be in the vicinity of the lease or grant or may be affected by lease or grant activities.	1.
801(e), (f)	Submit information to ensure proposed activities will be conducted in compliance with the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA); including agreements and mitigating measures designed to avoid or minimize adverse effects and incidental take of endangered species or critical habitat.	6.
802; 902(e)	Notify BOEM of archaeological resource within 72 hours of discovery	3.
802(b), (c)	If requested, conduct further archaeological investigations and submit report/information.	10.
802(d)	If applicable, submit payment for BOEM costs in carrying out National Historic Preservation Act responsibilities.	0.5.
803	If required, conduct additional surveys to define boundaries and avoidance distances and submit report.	15.
*** 810; 614; 627; 632(b); 651	Submit safety management system description with the SAP, COP, or GAP	35.
813(b)(1)	Report within 24 hours when any required equipment taken out of service for more than 12 hours; provide written confirmation if reported orally.	0.5 reports. 1 confirmation
813(b)(3)	Notify BOEM when equipment returned to service; provide written confirmation if reported orally.	0.5.
815(c)	When required, analyze cable, P/L, or facility damage or failures to determine cause and as soon as available submit comprehensive written report.	1.5.
816	Submit plan of corrective action report on observed detrimental effects on cable, P/L, or facility within 30 days of discovery; take remedial action and submit report of remedial action within 30 days after completion.	2.
822(a)(2)(iii), (b)	Until BOEM releases financial assurance, maintain records of design, construction, operation, maintenance, repairs, and investigation on or related to lease or ROW/RUE area; make available to BOEM for inspection.	1.
823	Request reimbursement within 90 days for food, quarters, and transportation provided to BOEM reps during inspection.	2.
824(a) [2]	Develop annual self inspection plan covering all facilities; retain with records, and make available to BOEM upon request.	24.
824(b)	Conduct annual self inspection and submit report by November 1	36.
825	Based on API RP 2A–WSD, perform assessment of structures, initiate mitigation actions for structures that do not pass assessment process, retain information, and make available to BOEM upon request.	60.
830(a), (c); 831 thru 833	Immediately report incidents to BOEM via oral communications, submit written follow-up report within 15 business days after the incident, and submit any required additional information.	0.5 oral. 4 written.
830(d)	Report oil spills as required by BSEE 30 CFR 254. Burden covered under BSEE 1014–0007.	0.
Subpart I—Decommissioning		
Four **** indicate the primary cites for the reports discussed in this subpart, and the burdens include any previous or subsequent references throughout part 585 to submitting and obtaining approval. This subpart contains references to other information submissions, approvals, requests, applications, plans, etc., the burdens for which are covered elsewhere in part 585.		0.

30 CFR 585	Reporting and recordkeeping requirement [1]	Hour burden
		Non-hour cost burden
**** 902; 905, 906; 907; 908(c); 909.	Submit for approval copies, in format specified, of SAP, COP, or GAP decommissioning application and site clearance plan at least 2 years before decommissioning activities begin, 90 days after completion of activities, or 90 days after cancellation, relinquishment, or other termination of lease or grant. Include documentation of coordination efforts w/States/CZMA agencies, local or tribal governments, requests that certain facilities remain in place for other activities, be converted to an artificial reef, or be toppled in place. Submit additional information/evidence requested or modify and resubmit application.	20.
902(d); 908;	Notify BOEM at least 60 days before commencing decommissioning activities	1.
910	Within 60 days after removing a facility, verify to BOEM that site is cleared	1.
912	Within 60 days after removing a facility, cable, or pipeline, submit a written report.	8.
BOEM does not anticipate decommissioning activities for at least 5 years so the requirements have been given a minimal burden.		
Subpart J—RUEs for Energy- and Marine-Related Activities Using Existing OCS Facilities		
1004, 1005, 1006	Contact owner of existing facility and/or lessee of the area to reach preliminary agreement to use facility and obtain concurring signatures; submit request to BOEM for an alternative use RUE, including all required information/modifications.	1.
1007(a), (b), (c)	Submit indication of competitive interest in response to **Federal Register** notice.	4.
1007(c)	Submit description of proposed activities and required information in response to **Federal Register** notice of competitive offering.	5.
1007(f)	Lessee or owner of facility submits decision to accept or reject proposals deemed acceptable by BOEM.	1.
1010(c)	Request renewal of Alternate Use RUE	6.
1012; 1016(b)	Provide financial assurance as BOEM determines in approving RUE for an existing facility, including additional security if required.	1.
1013	Submit request for assignment of an alternative use RUE for an existing facility, including all required information.	1.
1015	Request relinquishment of RUE for an existing facility	1.

[1] In the future, BOEM may require electronic filing of certain submissions.
[2] Retention of these records is usual and customary business practice; the burden is primarily to make them available to BOEM and CVAs.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: The current OMB approved non-hour cost burdens total $3,816,000. We have identified three non-hour cost burdens for this collection. These non-hour cost burdens consist of service fees for BOEM document/study preparation, costs for paying a contractor instead of BOEM, and costs for a site-specific study and report to evaluate the cause of harm to natural resources.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: We invite comments on: (1) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (2) the accuracy of our burden estimate; (3) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (4) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the non-hour cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 2, 2012.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2012–24878 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Snowden,* Civil Action No. 3:12–cv–04107–SRU, was lodged with the United States District Court for the District of Connecticut on October 2, 2012.

This proposed Consent Decree concerns a complaint filed by the United States against Guy B. Snowden, Diane P. Snowden, FCF Realty, LLC, and Falls Creek Farm, LLC, pursuant to sections 309(b), 309(d) and 404 of the Clean Water Act, 33 U.S.C. 1319(b), 1319(d) and 1344, to obtain injunctive relief and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore the impacted areas and/or perform mitigation, and to pay a civil penalty. The proposed Consent Decree also calls for the Defendants to establish a conservation easement to preserve wetlands and associated upland habitat.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Joshua M. Levin, Senior Attorney, United States Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, P.O. Box 7611, Washington, DC 20044, and refer to *United States* v. *Snowden,* DJ # 90–5–1–1–18622/1.

The proposed Consent Decree may be examined electronically at the Clerk's Office, United States District Court for the District of Connecticut, Richard C. Lee Federal Building, 141 Church Street, New Haven, CT 06510. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/Consent_Decrees.html.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2012–24810 Filed 10–9–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On October 1, 2012, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Wyoming in the lawsuit entitled *United States* v. *Sinclair Wyoming Oil Co.,* Civil Action No. 2:12–cv–00220–NDF.

The United States filed this lawsuit under the Clean Air Act. The United States' complaint seeks injunctive relief and civil penalties for violations of the Act's chemical accident prevention requirements at the defendant's refinery in Sinclair, Wyoming. The proposed consent decree requires the defendant to perform injunctive relief and pay a $378,000 civil penalty.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Sinclair Wyoming Refining Co.,* D.J. Ref. No. 90–5–2–1–10452. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $9.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–24884 Filed 10–9–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The Clean Air Act

On October 2, 2012, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Alaska in the lawsuit entitled *United States* v. *Golden Valley Electric Association, Inc., and Alaska Industrial Development and Export Authority,* Civil Action No. 4:12–cv–00025–RRB.

The United States filed this proposed consent decree simultaneously with a complaint under the Clean Air Act. Pursuant to Section 167 of the Clean Air Act, 42 U.S.C. 7477, the United States' complaint, on behalf of the United States Environmental Protection Agency, seeks injunctive relief to prevent violations of the Clean Air Act's (CAA's) Prevention of Significant Deterioration (PSD) requirements at Unit 2 of the Defendants' coal fired power plant in Healy, Alaska. The proposed consent decree would require Golden Valley Electric Association, Inc. (GVEA) and the Alaska Industrial Development and Export Authority (AIDEA) to perform specified injunctive relief at the plant to address certain emissions. Pursuant to the terms of the consent decree, a civil penalty of $115,000 would be paid and $250,000 in funds would be devoted to an environmental mitigation project relating to stove change-outs in Fairbanks and the Denali Borough, Alaska. The proposed consent decree would resolve the alleged PSD claim as well as certain other CAA claims on Unit 2 at the Healy power plant.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Golden Valley Electric Association, Inc., and Alaska Industrial Development and Export Authority,* D.J. Ref. No. No. 90–5–2–1–10615. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $15.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen M. Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–24835 Filed 10–9–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice Lodging of Proposed Consent Decree Under the Clean Air Act

On September 28, 2012, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Puerto Rico in the lawsuit entitled *United States* v. *Suiza Dairy Corporation,* Civil Action No. 3:12–cv–01810.

The proposed Consent Decree memorializes a proposed settlement between the United States and Suiza Dairy Corporation, to resolve alleged violations of Section 112(r) of the Clean Air Act at dairies in Rio Piedras (the ''Rio Piedras Facility'') and Aguadilla (the ''Aguadilla Facility''), Puerto Rico.

The proposed settlement provides for Suiza to: (1) Implement over 40 compliance measures at each of the two dairies; (2) perform supplemental environmental projects (''SEPs'') that will significantly reduce the inventory of anhydrous ammonia at each facility, improve the monitoring and alarm system at the Aguadilla facility, and provide training and/or equipment to medical personnel for treatment of patients exposed to anhydrous ammonia; (3) pay a civil penalty of $275,000; and (4) conduct community emergency drills comprising the simulation of an emergency response to an anhydrous ammonia release. The injunctive relief, SEPs, and community emergency drills are collectively valued at approximately $3,750,000.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Suiza Dairy Corporation,* D.J. Ref. No. 90–5–2–1–09774. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–24816 Filed 10–9–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 08–12]

Notice of Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Thursday, October 25, 2012: 2:30 p.m.—Oral hearings on Objection to Commission's Proposed Decisions in Claim No. LIB–II–133, LIB–II–134, LIB–II–135, LIB–II–136 and LIB–II–137.

Friday, October 26, 2012: 9:00 a.m.—LIB–II–171; 11:00 a.m.— LIB–II–193; 12:00 noon—LIB–II–194.

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Judith H. Lock, Executive Officer, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Jaleh F. Barrett,

Chief Counsel.

[FR Doc. 2012–25026 Filed 10–5–12; 4:15 pm]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1608]

Meeting of the Federal Advisory Committee on Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) announces a meeting of the Federal Advisory Committee on Juvenile Justice (FACJJ).

DATES AND LOCATIONS: The meeting will take place at the Office of Justice Programs, 810 Seventh Street NW., Washington, DC 20531, on Thursday, October 18, 2012, from 8:30 a.m. to 5 p.m. ET, and Friday, October 19, from 8:30 a.m. to 1 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Robin Delany-Shabazz, Designated Federal Official, OJJDP, *Robin.Delany-Shabazz@usdoj.gov*, or 202–307–9963. [**Note:** This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee on Juvenile Justice (FACJJ), established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App.2), will meet to carry out its advisory functions under Section 223(f)(2)(C–E) of the Juvenile Justice and Delinquency Prevention Act of 2002. The FACJJ is composed of representatives from the states and territories. FACJJ member duties include: reviewing Federal policies regarding juvenile justice and delinquency prevention; advising the OJJDP Administrator with respect to particular functions and aspects of OJJDP; and advising the President and Congress with regard to State perspectives on the operation of OJJDP

and Federal legislation pertaining to juvenile justice and delinquency prevention. More information may be found at *www.facjj.org.*

Meeting Agenda: The agenda will include: (a) Welcome and introductions; (b) remarks from the Administrator; (c) subcommittee meetings (closed to public); (d) reports and discussions; (e) presentation by and discussion with staff of the Juvenile Justice Evaluation Center; (f) presentations on trends in state juvenile justice-related legislation and on juvenile justice reform; (g) other business; and (h) adjournment.

For security purposes, members of the public who wish to attend must pre-register online at *www.facjj.org* by Tuesday, October 16, 2012. Should problems arise with web registration, call Daryel Dunston at 240–221–4343. [**Note:** these are not toll-free telephone numbers.] Photo identification will be required. Additional identification documents may be required. Space is limited.

Written Comments: Interested parties may submit written comments in advance to Robin Delany-Shabazz, Designated Federal Official, by email to *Robin.Delany-Shabazz@usdoj.gov* no later than Tuesday, October 16, 2012. Alternatively, fax your comments to 202–307–2819 and call Joyce Mosso Stokes at 202–305–4445 to ensure that they are received. [**Note:** These are not toll-free numbers.]

Marilyn M. Roberts,

Deputy Administrator for Programs, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 2012–24857 Filed 10–9–12; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–079]

National Environmental Policy Act; Sounding Rockets Program; Poker Flat Research Range

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of the Draft Environmental Impact Statement (DEIS) for the NASA Sounding Rockets Program (SRP) at Poker Flat Research Range (PFRR), Alaska.

SUMMARY: Pursuant to the National Environmental Policy Act, as amended, (NEPA) (42 U.S.C. 4321 et. seq.), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA's NEPA policy and procedures (14 CFR Part 1216, subpart 1216.3), NASA has prepared and issued a DEIS for its continued use of the University of Alaska Fairbanks (UAF) owned and managed PFRR, outside of Fairbanks, Alaska. The U.S. Fish and Wildlife Service (USFWS), Bureau of Land Management (BLM), and UAF have served as Cooperating Agencies in preparing the DEIS. The purpose of this notice is to apprise interested agencies, organizations, tribal governments, and individuals of the availability of the DEIS and to invite comments on the document. In cooperation with BLM, UAF, and USFWS, NASA will hold public meetings as part of the DEIS review process. The meeting locations and dates identified at this time are provided under **SUPPLEMENTARY INFORMATION** below.

DATES: Interested parties are invited to submit comments on environmental issues and concerns, preferably in writing, within sixty (60) days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's Notice of Availability of the DEIS. Once known, this date will be published on the project Web site presented under **ADDRESSES** below.

ADDRESSES: Comments submitted by mail should be addressed to Joshua Bundick, Manager, Poker Flat Research Range EIS, NASA Goddard Space Flight Center's Wallops Flight Facility, Mailstop: 250.W, Wallops Island, Virginia 23337. Comments may be submitted via email to *Joshua.A.Bundick@nasa.gov.*

The DEIS may be reviewed at the following locations:

(a) ARLIS, 3211 Providence Drive, Anchorage, Alaska, 99508 (907–272–7547).

(b) Z.J. Loussac Public Library, 3600 Denali Street, Anchorage, Alaska, 99503 (907–343–2975).

(c) Elmer E. Rasmuson Library, 310 Tanana Loop, Fairbanks, Alaska, 99775 (907–474–7481).

(d) Noel Wien Library, 1215 Cowles Street, Fairbanks, Alaska 99701 (907–459–1020).

(e) Juneau Public Library, 292 Marine Way, Juneau, Alaska 99801 (907–586–5249).

(f) NASA Headquarters Library, Room 1J20, 300 E Street SW., Washington, DC 20546–0001 (202–358–0168).

A limited number of hard copies of the DEIS are available, on a first request basis, by contacting the NASA point of contact listed under **FOR FURTHER INFORMATION**. The DEIS is available on the internet in Adobe® portable document format at *http://sites.wff.nasa.gov/code250/pfrr_eis.html.* The **Federal Register** Notice of Intent to prepare the DEIS, issued on April 13, 2011, is also available on the internet at the same Web site address.

FOR FURTHER INFORMATION CONTACT: Joshua Bundick, Manager, Poker Flat Research Range EIS, NASA Wallops Flight Facility, Mailstop: 250.W, Wallops Island, Virginia 23337; telephone (757) 824–2319; fax (757) 824–1819; email: *Joshua.A.Bundick@nasa.gov.* A toll-free telephone number, (800) 521–3415, is also available for persons outside the local calling area. When using the toll-free number, please follow the menu options and enter the ''pound sign (#)'' followed by extension numbers ''2319.''

Additional information about NASA's SRP and UAF's PFRR may be found on the internet at *http://sites.wff.nasa.gov/code810* and *http://www.pfrr.alaska.edu,* respectively. Information regarding the NEPA process for this proposal and supporting documents (as available) are located at *http://sites.wff.nasa.gov/code250/pfrr_eis.html.*

SUPPLEMENTARY INFORMATION: Since the late 1960s, NASA, other government agencies, and educational institutions have conducted suborbital rocket launches from the PFRR. While the PFRR is owned and managed by the Geophysical Institute of UAF, the NASA SRP has exclusively funded and managed the support contract with PFRR for more than 25 years. The PFRR is the only high-latitude, auroral-zone rocket launching facility in the United States where a sounding rocket can readily study the aurora borealis and the sun-earth connection.

Related Environmental Documents

In recent years, concerns raised by agencies and organizations regarding the potential impact of its operations at PFRR prompted NASA to review its 2000 SRP Final Supplemental Environmental Impact Statement (FSEIS). In doing so, NASA determined that while the overall environmental analysis in the 2000 SRP FSEIS remains sufficient to support the Agency's broad decision to continue the SRP at PFRR, potential changes in both operations and the environmental context of the launch corridor north of the site warranted preparation of additional site-specific environmental analysis. Accordingly, the DEIS tiers from the programmatic 2000 FSEIS and provides a focused analysis of SRP operations at PFRR.

Cooperating Agency Actions

The PFRR EIS will serve as a decision-making tool not only for NASA but also for its two Federal Cooperating Agencies, BLM and USFWS. Directly north of the PFRR facility are its downrange flight zones, over which rockets are launched and within which spent stages and payloads impact the ground. Within these flight zones are BLM's Steese National Conservation Area and White Mountain National Recreational Area, and the USFWS-managed Arctic and Yukon Flats National Wildlife Refuges. Historically, the managing entities have issued UAF annual or multi-year special-use authorizations and agreements for impact of rockets and recovery operations on these lands.

BLM and USFWS are currently considering if and how future authorizations for rocket landing and recovery would be issued for the properties under their management. As such, the DEIS considers the effects of each agency's respective permitting actions.

Alternatives

The DEIS evaluates the environmental consequences of five alternative means for continuing sounding rocket launches at PFRR. The alternatives differ primarily in the level of effort that would be exerted to locate and recover past and future launch related items in downrange lands. Two alternatives also include a restriction on planning rocket motor or payload impacts within designated Wild or Scenic Rivers.

Public Meetings

NASA and its Cooperating Agencies plan to hold public meetings in Alaska to discuss the SRP at PFRR and to solicit comments on the DEIS.

The public meetings are currently scheduled for:

—Wednesday, October 24, 2012, at the USFWS Alaska Regional Office, Gordon Watson Conference Room, 1011 East Tudor Road, Anchorage, Alaska, 6:00 p.m.–8:00 p.m.

—Thursday, October 25, 2012, at the BLM Fairbanks District Office, 1150 University Avenue, Fairbanks, Alaska, 6:00 p.m.–8:00 p.m.

Times and locations of additional meetings, particularly those with interior Villages, will be coordinated with the respective governing bodies and published locally as they are scheduled. NASA will consider all comments received in developing its Final EIS; comments received and responses to comments will be included in the Final document. In conclusion, written public input on environmental issues and concerns associated with NASA's SRP launches at PFRR are hereby requested.

Olga M. Dominguez,

Assistant Administrator, Office of Strategic Infrastructure.

[FR Doc. 2012–24891 Filed 10–9–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts 177th Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506. Agenda times are approximate.

DATES: October 26, 2012 from 9 a.m. to 11:30 a.m. in Room M–09.

FOR FURTHER INFORMATION CONTACT: Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

SUPPLEMENTARY INFORMATION: The meeting, on Friday, October 26th, will be open to the public on a space available basis. The meeting will begin with opening remarks, swearing in of new Council member Paul W. Hodes, and voting on recommendations for funding and rejection and guidelines, followed by updates by the Chairman. There will also be the following presentations: from 9:45 a.m. to 10:30 a.m.—London Cultural Olympiad/2012 Summer Olympics Presentation (Elizabeth Streb, Director of STREB Lab for Action Mechanics); from 10:30 a.m. to 11 a.m.—NEA/Bureau of Economic Analysis Partnership Presentation (David Wasshausen, Division Chief, U.S. Department of Commerce/Bureau of Economic Analysis); from 11 a.m. to 11:15 a.m.—Media Arts Presentation (Sue Schardt, Executive Director of The Association of Independents in Radio); 11:15 a.m. to 11:30 a.m.—concluding remarks and voting results. The meeting will adjourn at 11:30 a.m.

For information about webcasting of the open session of this meeting, go to the Podcasts, Webcasts, & Webinars tab at *www.arts.gov.*

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the February 15, 2012 determination of the Chairman. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of Accessibility, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5733, Voice/TTY 202/682–5496, at least seven (7) days prior to the meeting.

Dated: October 4, 2012.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 2012–24892 Filed 10–9–12; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts Advisory Panel Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that sixteen meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506 as follows (ending times are approximate):

Arts Education (application review): In room 627. This meeting will be closed.

Dates: October 29–30, 2012; 9 a.m. to 5 p.m. EDT each day.

Design (application review): In room 714. This meeting will be closed.

Dates: October 30, 2012; 9 a.m. to 5:30 p.m. EDT.

Design (application review): In room 714. This meeting will be closed.

Dates: November 1, 2012, from 9 a.m. to 5:30 p.m. EDT.

Opera (application review): In room 716. This meeting will be closed.

Dates: November 1, 2012, from 9 a.m. to 5:30 p.m. EDT.

Arts Education (application review): In room 627. This meeting will be closed.

Dates: November 8, 2012. From 9 a.m. to 6 p.m. EST.

Presenting (application review): In room 714. This meeting will be closed.

Dates: November 8–9, 2012; 9 a.m. to 5:30 p.m. EST on November 8th and 9 a.m. to 3 p.m. EST on November 9th.

Theater & Musical Theater (application review): In room 716. This meeting will be closed.

Dates: November 8–9, 2012. From 9 a.m. to 5:30 p.m. EST on November 8th and from 9 a.m. to 3 p.m. EST on November 9th.

Theater & Musical Theater (application review): In room 714. This meeting will be closed.

Dates: November 13–14, 2012. From 9 a.m. to 5:30 p.m. EST on November 13th and from 9 a.m. to 3 p.m. EST on November 14th.

Local Arts Agencies (application review): In room 627. This meeting will be closed.

Dates: November 14, 2012. From 9 a.m. to 4 p.m. EST.

Arts Education (application review): In room 716. This meeting will be closed.

Dates: November 15, 2012. From 9 a.m. to 6 p.m. EST.

Dance (application review): In room 627. This meeting will be closed.

Dates: November 15, 2012. From 9 a.m. to 6 p.m. EST.

Folk and Traditional Arts (application review): In room 714. This meeting will be closed.

Dates: November 15, 2012. From 9 a.m. to 5:30 p.m. EST.

Museums (application review): In room 730. This meeting will be closed.

Dates: November 15, 2012. From 9 a.m. to 5:30 p.m. EST.

Dance (application review): In room 627, by teleconference. This meeting will be closed.

Dates: November 16, 2012. From 2 p.m. to 4 p.m. EST.

Folk and Traditional Arts (application review): In room 714. This meeting will be closed.

Dates: November 16, 2012. From 9 a.m. to 5:30 p.m. EST.

Museums (application review): In room 730. This meeting will be closed.

Dates: November 16, 2012. From 9 a.m. to 5:30 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *plowitzk@arts.gov* or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Dated: October 3, 2012.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2012–24846 Filed 10–9–12; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: NSF Advisory Committee for International Science and Engineering (25104).

Date and Time: October 25, 2012 8:30 a.m.–5 p.m. October 26, 2012 8:30 a.m.–12 p.m.

Place: The public is welcome to attend at Arlington Hilton Hotel, Gallery Ballroom I, 950 Stafford Street, Arlington, VA (next door to the National Science Foundation building).

Type of Meeting: Open.

Contact Person: Robert Webber, NSF Office of International Science and Engineering, 4201 Wilson Blvd., Arlington, VA. Telephone: 703–292–7569. Email: *rwebber@nsf.gov.*

Purpose of Meeting: To provide advice and recommendations concerning support for research, education and related activities involving the U.S. science and engineering community working in a global context as well as strategic efforts to promote a more effective NSF role in international science and engineering.

Agenda: Overview of international activities at NSF and beyond, discussion of data searching tools for international activities, and future directions for NSF's international advisory committee.

Dated: October 4, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–24887 Filed 10–9–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

President's Committee on the National Medal of Science Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science (1182).

Date and Time: Wednesday, October 31, 2011, 8:30 a.m.–2:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person for More Information: Ms. Mayra Montrose, Program Manager, Room 1282, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–4757.

Purpose of Meeting: To provide advice and recommendations to the President in the selection of the 2012 National Medal of Science recipients.

Agenda: To review and evaluate nominations as part of the selection process for awards.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act.

Dated: October 3, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–24854 Filed 10–9–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0002]

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of October 8, 15, 22, 29, November 5, 12, 2012.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of October 8, 2012

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

9:00 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.*

Week of November 5, 2012—Tentative

Monday, November 5, 2012

1:30p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852.

Thursday, November 8, 2012

9:30 a.m. Discussion of Management Issues (Closed—Ex. 2).

Week of November 12, 2012—Tentative

There are no meetings scheduled for the week of November 12, 2012.

* * * * *

* 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: October 4, 2012.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2012–24985 Filed 10–5–12; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–042; NRC–2012–0165]

Exelon Generation Company, LLC, Victoria County Station Site; Notice of Withdrawal of Application for an Early Site Permit

By letter dated March 25, 2010, Exelon Nuclear Texas Holdings, LLC, (Exelon) submitted an application for an Early Site Permit (ESP) for the Victoria County Station (VCS) site located in Victoria County, Texas to the U.S. Nuclear Regulatory Commission (NRC or the Commission) in accordance with the requirements contained in part 52 of Title 10 of the Code of Federal Regulations (10 CFR), ''Licenses, Certifications and Approvals for Nuclear Power Plants.''

A notice acknowledging receipt and availability of this application was published in the **Federal Register** on April 28, 2010 (75 FR 22434). On June 14, 2010 (75 FR 33653), a subsequent notice was published in the **Federal Register** announcing the acceptance of the VCS ESP application for docketing in accordance with 10 CFR part 2, ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,'' and 10 CFR part 52. The docket number established for this application is 52–042.

By letter dated August 28, 2012, Exelon requested that the VCS ESP application be withdrawn from the docket. Pursuant to the requirements in 10 CFR part 2, the Commission grants Exelon its request to withdraw the VCS ESP application.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of October 2012.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2012–24922 Filed 10–9–12; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67973; File No. SR–ISE–2012–73]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Non-Substantive Clarifications to the Exchange's Schedule of Fees

October 3, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to make non-substantive clarifications to its Schedule of Fees. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 25 of this year, the Exchange submitted a rule filing to relocate various fees within the Exchange's Schedule of Fees (the ''old fee schedule'') to group fees so that the Exchange's fees would be easily located within the fee schedule (the ''re-formatted fee schedule'').[3] The Exchange did not propose to make any substantive changes in that filing, and did not change the manner in which it assessed the fees as a result of the adoption of the re-formatted fee schedule. Nevertheless, some uncertainty as to the application of certain fees and rebates was introduced by the re-formatted fee schedule. The purpose of this proposed rule change is to make two clarifications on the re-formatted fee schedule. The Exchange is not proposing any substantive changes to its fees.

First, on the old fee schedule, there was a footnote to the crossing order execution fees for Select Symbols[4] stating that a rebate of $0.15 per contract for Facilitation and Solicited Orders, and $0.25 per contract for PIM orders, applied to contracts that do not trade with their contra order. This footnote indicated that the rebate would be applied in lieu of the execution fee. On the re-formatted fee schedule, separate columns were added to the table of fees for Select Symbols to indicate these rebates. As a result, it might not be clear that the execution fee for crossing orders is not applied to contracts that receive the rebate. Accordingly, the Exchange proposes to add the following text in the footnotes to each rebate: ''The fee for Crossing Orders is not applied to any contracts for which a rebate is provided.''

Second, on the old fee schedule, an execution fee of $0.20 per contract was specified for Non-Select Symbols[5] for ''Customer (entered in response to special order broadcast).'' This fee was adopted in January 2007 and has always been applied to ''response messages'' entered with respect to a particular broadcast message, but not to orders that are received on the limit order book after an auction commences.[6] The Exchange later adopted a similar response fee for Regular Orders in Select Symbols,[7] for complex orders in Select Symbols[8] and then for Regular Orders in Special Non-Select Penny Pilot Symbols[9] of $0.40 per contract, and more recently, adopted a fee for complex orders in Non-Penny Pilot Symbols[10] of $0.70 per contract ($0.75 per contract for Non-ISE Market Makers (FarMM)) for responses to special orders,[11] but specified that a ''response'' is any contra-side interest submitted after the commencement of an auction. Thus, the fees for Regular Orders in Select Symbols and Special Non-Select Penny Pilot Symbols and all complex orders are applied to both response messages and to orders received on the limit order book after an auction commences, whereas the fees for Regular Orders in Non-Select Symbols are applied to response messages.

When the fee schedule was re-formatted, a single definition of ''Response to Crossing Orders'' that reflects the definition for Regular Orders in Select Symbols and Special Non-Select Penny Pilot Symbols and all complex orders was added to the Preface of the fee schedule. Because the defined terms in the Preface apply to all symbols, including Non-Select Symbols, it appears as though regular customer orders received after the commencement of an auction in Non-Select Symbols are now being charged the $0.20 response fee when that is not the case. Accordingly, the Exchange proposes to amend the Preface of the fee schedule to clearly indicate that the current definition of ''Responses to Crossing Order'' is applicable to Regular Orders in Select Symbols and Special Non-Select Penny Pilot Symbols and all complex orders and to add the appropriate definition for Non-Select Symbols as follows:

➢ ''Responses to Crossing Order'' (other than Regular Orders in Non-Select Symbols) is any contra-side interest submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM.

➢ ''Responses to Crossing Order'' (for Regular Orders in Non-Select Symbols) is any response message entered with respect to a specific auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM.

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Securities and Exchange Act of 1934 (the ''Exchange Act'')[12] in general, and furthers the objectives of Section 6(b)(4) of the Act[13] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities. The Exchange believes that its proposal to clarify the application of certain fees is both reasonable and equitable because members would benefit from clear guidance in the fee schedule that describes the manner in which the Exchange would assess fees. The

[3] *See* Exchange Act Release No. 67545 (July 31, 2012), 77 FR 46776 (August 6, 2012) (SR–ISE–2012–65).

[4] ''Select Symbols'' are options overlying C, BAC, SPY, IWM, XLF, GE, JPM, INTC, RIMM, T, VZ, UNG, FCX, CSCO, DIA, X, AA, AIG, AXP, BBY, CAT, CHK, DNDN, EEM, EFA, EWZ, F, FAS, FAZ, FSLR, GDX, GLD, IYR, MGM, MS, MSFT, MU, PBR, PG, POT, RIG, SLV, XLE, XOM, ABX, BMY, BP, DELL, FXI, HAL, IBM, KO, LVS, MCD, MO, MON, NOK, ORCL, PFE, QCOM, SLB, SNDK, TBT, USO, V, VALE, WFT, XLI, XRT, YHOO, AKAM, AMD, APC, BA, BRCM, GG, HPQ, LCC, NEM, NFLX, NVDA, QID, TEVA, TLT, UAL, WFC, XLB, SBUX, VVUS, MSI, AAPL, BIDU, and VXX.

[5] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols and Special Non-Select Penny Pilot Symbols.

[6] *See* Exchange Act Release No. 55060 (Jan. 8, 2007), 72 FR 2050 (Jan. 17, 2007) (SR–ISE–2006–72).

[7] *See* Exchange Act Release No. 63283 (Nov. 9, 2010), 75 FR 70059 (Nov. 16, 2010) (SR–ISE–2010–106).

[8] *See* Exchange Act Release No. 65550 (October 13, 2011), 76 FR 64984 (October 19, 2012 [sic]) (SR–ISE–2011–65). In this filing, the Exchange also adopted a response fee for complex orders for symbols that are in the Penny Pilot Program.

[9] *See* Exchange Act Release No. 67201 (June 14, 2012), 77 FR 37082 (June 20, 2012) (SR–ISE–2012–49). ''Special Non-Select Penny Pilot Symbols'' are options overlying ACI, AGNC, AMLN, AMZN, ANR, APA, ARNA, ATPG, AUY, BAX, BTU, CLF, COP, CRM, CVX, DAL, DD, DE, DIS, DOW, EBAY, FDX, GLW, GM, GMCR, GS, HD, HGSI, JCP, JOY, KBH, KGC, LULU, MA, MBI, MCP, MDT, MMR, MOS, MRK, NKE, PEP, QQQ, S, SD, SDS, SHLD, SINA, SIRI, SLW, SSO, TZA, UNP, UPS, USB, UTX, VLO, WAG, WDC, WLT, WYNN, XHB, XLK, XLU and ZNGA.

[10] *See* Exchange Act Release No. 66084 (January 3, 2012), 77 FR 1103 (January 9, 2012) (SR–ISE–2011–84). This fee was later increased to $0.75 per contract ($0.78 per contract for Non-ISE Market Makers). *See* Exchange Act Release No. 66962 (May 10, 2012), 77 FR 28917 (May 16, 2012) (SR–ISE–2012–35).

[11] The term ''special order'' was changed to ''crossing order'' in the re-formatted fee schedule.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

Exchange believes the proposed rule change is also reasonable because it makes clarifying changes to the Preface and to footnotes and thereby provides greater transparency to the Exchange's Schedule of Fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2012–73 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2012–73. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2012–73 and should be submitted on or before October 31, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24886 Filed 10–9–12; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67971; File No. SR–FINRA–2012–044]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Trading Activity Fee Rate for Transactions in Security Futures

October 3, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 26, 2012, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as "establishing or changing a due, fee or other charge" under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Section 1 of Schedule A to the FINRA By-Laws to adjust the rate of FINRA's Trading Activity Fee ("TAF") for round turn transactions in security futures.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA's primary member fee structure consists of the following: the Personnel Assessment; the Gross Income Assessment; and the TAF. These fees are used to fund FINRA's regulatory activities, including examinations; financial monitoring; and FINRA's policymaking, rulemaking, and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

enforcement activities.[5] The proposed rule change amends the TAF rate for round turn transactions in security futures to match the fee charged by the National Futures Association (''NFA'').

FINRA initially adopted the TAF in 2002 as a replacement for an earlier regulatory fee based on trades reported to Nasdaq's Automated Confirmation Transaction system then in place.[6] Currently, the TAF is generally assessed on the sale of all exchange registered securities wherever executed (except debt securities that are not TRACE-Eligible Securities), over-the-counter equity securities, security futures, TRACE-Eligible Securities (provided that the transaction is a Reportable TRACE Transaction), and all municipal securities subject to Municipal Securities Rulemaking Board reporting requirements. The rules governing the TAF also include a list of transactions exempt from the TAF, including transactions in security futures held in futures (as opposed to securities) accounts.[7]

For transactions in security futures held in securities accounts, members must pay to FINRA a fee for each round turn transaction (treated as including one purchase and one sale of a contract of sale for future delivery) of a security future.[8] The current TAF rate for security futures transactions is $0.04 per contract for each round turn transaction.[9]

On June 1, 2012, the NFA submitted an NFA Interpretive Notice to the Commodity Futures Trading Commission (''CFTC'') regarding the NFA's assessment fee on diminutive notional value contracts and security futures products.[10] Pursuant to the NFA Filing, effective September 1, 2012, the NFA reduced its assessment fee on security futures transactions from $0.04 per contract for each round turn transaction to $0.00008 with a minimum fee of $0.01 per round turn transaction. The NFA Filing notes that the $0.04 rate had been in place since 2002 and, when adopted, was intended ''to ensure that NFA's fees do not provide a disincentive for customers to carry [security futures products] in the futures accounts of NFA Member firms.''

To ensure that the TAF does not create a disincentive to holding security futures in securities accounts, FINRA is proposing to amend the TAF rate for security future transactions from $0.04 per contract for each round turn transaction to $0.00008 per contract for each round turn transaction, with a minimum fee of $0.01 per round turn transaction. FINRA believes that amending the TAF rate on security futures transactions to match the rate charged on such transactions by the NFA will ensure that transaction fees do not influence the decision on whether to hold security futures in a futures or in a securities account.[11]

The implementation date of the proposed rule change will be October 1, 2012. FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[12] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Because of the NFA's amendment to its assessment fee for transactions in security futures held in futures accounts, FINRA believes that the proposed rate change to the TAF is now necessary to ensure that there is no disincentive to hold security futures in a security account because of the fees charged on round turn transactions in security futures.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and paragraph (f)(2) of Rule 19b–4 thereunder.[14] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2012–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2012–044. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent

[5] *See* FINRA By-Laws, Schedule A, § 1(a).

[6] *See* Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002).

[7] *See* FINRA By-Laws, Schedule A, § 1(b)(2)(J).

[8] *See* FINRA By-Laws, Schedule A, § 1(b)(3)(C).

[9] *See* FINRA By-Laws, Schedule A, § 1. This rate has been in place since October 1, 2002. *See* NASD *Notice to Members* 02–75 (November 2002).

[10] *See* NFA Notice to Members I–12–15 (July 20, 2012); NFA Filing from Thomas W. Sexton, Senior Vice President and General Counsel, NFA, to David A. Stawick, Office of the Secretariat, CFTC, dated June 1, 2012 (''NFA Filing'').

[11] FINRA notes that the NFA Filing states that the NFA was adjusting its assessment rate on security futures, at least in part, to avoid having the assessment rate provide a disincentive to holding security futures in a futures account. The NFA Filing notes that a disincentive could be created because FINRA does not charge the security futures TAF rate on trades in security futures that result in delivery of the underlying securities ''but rather charges a securities fee that is capped at $4.50.'' *See* NFA Filing, *supra* note 10, at 4. Since the TAF was adopted, FINRA has charged such transactions based on the TAF equity rate structure rather than the rate for round turn transactions in security futures. *See* NASD *Notice to Members* 02–63, Question 10 (September 2002); *see also* TAF Frequently Asked Question 500.4, *available at www.finra.org/taf/faq.* FINRA notes that it is not changing this guidance; however, as of July 1, 2012, the cap on the TAF assessment for transactions in equity securities was increased to $5.95. *See Regulatory Notice* 12–31 (June 2012).

[12] 15 U.S.C. 78*o*–3(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for Web site inspection and printing at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–FINRA–2012–044 and should be submitted on or before October 31, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24859 Filed 10–9–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67970; File No. SR–ICC–2012–12]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Amend Schedule 502 of the ICE Clear Credit Rules To Provide for Clearing of Additional Single Name Investment Grade CDS Contracts

October 3, 2012.

I. Introduction

On August 9, 2012, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICC–2012–12 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] The proposed rule change was published for comment in the Federal Register on August 24, 2012.[2] The Commission received no comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description of the Proposal

The purpose of proposed rule change is to provide for the clearance of the following twenty additional investment grade Standard North American Corporate Single Name CDS contracts: Nucor Corporation; V.F. Corporation; The Procter & Gamble Company; Encana Corporation; Weatherford International Ltd.; Chevron Corporation; Nexen Inc.; Energy Transfer Partners, L.P.; Apache Corporation; Kimco Realty Corporation; Prudential Financial, Inc.; Prologis, L.P.; HCP, Inc.; Lincoln National Corporation; The Travelers Companies, Inc.; Textron Financial Corporation; Textron Inc.; The Williams Companies, Inc.; Pacific Gas and Electric Company; and Starwood Hotels & Resorts Worldwide, Inc. (the ''Additional Single Names'').

As with the Standard North American Corporate Single Names currently cleared, ICC plans to provide for the clearance of contracts with a restructuring type of no restructuring, standardized maturity dates up to the 10-year tenor and both standardized coupons. One of the Additional Single Names (Starwood Hotels & Resorts Worldwide, Inc.) was recently added by Markit as one of the one hundred twenty-five single constituents of its Markit CDX North American Investment Grade Series 18 Index, and is not currently being cleared by ICC. Another of the Additional Single Names (Textron Financial Corporation) is a constituent of the Series 8 through 12 of the Markit CDX North American Investment Grade Index, and has not been cleared previously by ICC. All other Additional Single Names are not constituents of Series 8 through 18 of the Markit CDX North American Investment Grade Index. The Additional Single Names do not require any changes to the body of the ICC Rules. ICC will clear the Additional Single Names pursuant to ICC's existing Rules. The Additional Single Names do not require any changes to the ICC risk management framework including the ICC margin methodology, guaranty fund methodology, pricing parameters, or pricing model. The only change submitted was the inclusion of the Additional Single Names to Schedule 502 of the ICC Rules. The Additional Single Names were reviewed by the ICC Risk Department, the ICC Trading Advisory Committee, and the ICC Risk Committee.

III. Discussion

Section 19(b)(2)(C) of the Act[3] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.

Section 17A(b)(3)(F) of the Act[4] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) and other requirements of the Act.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[5] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–ICC–2012–12) be, and hereby is, approved.[7]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24858 Filed 10–9–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Order of Suspension of Trading; In the Matter of Liberty Silver Corp.

October 5, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Liberty

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 34–67696 (August 20, 2012), 77 FR 51599 (August 24, 2012).

[3] 15 U.S.C. 78s(b)(2)(C).

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(2).

[7] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

Silver Corp. (''Liberty Silver'') because of questions concerning publicly available information about Liberty Silver, the control of its stock, its market price, and trading in the stock. Liberty Silver is a Nevada corporation based in Toronto, Ontario, Canada; it is quoted on the OTCBB under the symbol LBSV.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT, on October 5, 2012 through 11:59 p.m. EDT, on October 18, 2012.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24971 Filed 10–5–12; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13271 and #13272]

Louisiana Disaster Number LA–00048

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 8.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of LOUISIANA (FEMA–4080–DR), dated 08/31/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 through 09/10/2012.

Effective Date: 10/01/2012.

Physical Loan Application Deadline Date: 10/30/2012.

EIDL Loan Application Deadline Date: 05/29/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of LOUISIANA, dated 08/31/2012 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes: (Physical Damage and Economic Injury Loans): Allen, Morehouse, Saint Martin.

Contiguous Parishes/Counties:

(Economic Injury Loans Only):

Louisiana:

Beauregard, Evangeline, Jefferson Davis, Lafayette, Ouachita, Rapides, Richland, Saint Landry, Union, Vernon, West Carroll.

Arkansas:

Ashley, Chicot, Union.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2012–24836 Filed 10–9–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13332 Disaster #ZZ–00008]

The Entire United States and U.S. Territories

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Military Reservist Economic Injury Disaster Loan Program (MREIDL), dated 10/01/2012.

DATES: *Effective Date:* 10/01/2012.

MREIDL Loan Application Deadline Date: 1 year after the essential employee is discharged or released from active duty.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of Public Law 106–50, the Veterans entrepreneurship and Small Business Development Act of 1999, and the Military Reservist and Veteran Small Business Reauthorization Act of 2008, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan Program (MREIDL).

Effective 10/01/2012, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict or have received notice of an expected call-up, and those employees are essential to the success of the small business daily operations.

The purpose of the MREIDL program is to provide funds to an eligible small business to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up or expects to be called-up to active duty in his or her role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active duty. For information/applications contact 1–800–659–2955 or visit *www.sba.gov.*

Applications for the Military Reservist Economic Injury Disaster Loan Program may be filed at the above address.

The Interest Rate for eligible small businesses is 4.000.

The number assigned is 13332 0.

(Catalog of Federal Domestic Assistance Number 59002)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–24844 Filed 10–9–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13273 and #13274]

Mississippi Disaster Number MS–00059

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4081–DR), dated 09/01/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 Through 09/11/2012.

Effective Date: 09/28/2012.

Physical Loan Application Deadline Date: 10/31/2012.

EIDL Loan Application Deadline Date: 05/30/2013.

ADDRESSES: Submit completed loan applications to:

U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Mississippi, dated 09/01/2012 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Copiah, Franklin, Jefferson, Jones, Lamar

Contiguous Counties: (Economic Injury Loans Only):

Mississippi: Smith

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator, for Disaster Assistance.

[FR Doc. 2012–24849 Filed 10–9–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13292 and #13293]

Mississippi Disaster Number MS–00060

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Mississippi (FEMA–4081–DR), dated 09/11/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 Through 09/11/2012.

Effective Date: 09/28/2012.

Physical Loan Application Deadline Date: 11/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/11/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Mississippi, dated 09/11/2012, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Clarke.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012–24848 Filed 10–9–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13330 and #13331]

Oklahoma Disaster # OK–00067

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of OKLAHOMA dated 10/01/2012.

Incident: Multiple Wildfires.

Incident Period: 07/30/2012 Through 08/12/2012.

Effective Date: 10/01/2012.

Physical Loan Application Deadline Date: 11/30/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 07/01/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Payne.

Contiguous Counties:

Oklahoma: Creek Lincoln, Logan Noble, Pawnee.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13330 5 and for economic injury is 13331 0.

The State which received an EIDL Declaration # is Oklahoma.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 1, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–24842 Filed 10–9–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13294 and #13295]

Louisiana Disaster Number LA–00049

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–4080–DR), dated 09/12/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 through 09/10/2012.

Effective Date: 10/01/2012.

Physical Loan Application Deadline Date: 11/13/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 06/12/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of LOUISIANA, dated 09/12/2012, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Parishes:

Catahoula, Franklin, Lafayette, Morehouse, Saint Landry, Saint Martin, Union, Vermilion.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2012–24838 Filed 10–9–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13326 and #13327]

Utah Disaster # UT–00015

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of UTAH dated 10/01/2012.

Incident: Flooding.

Incident Period: 09/11/2012.

DATES: *Effective Date:* 10/01/2012.

Physical Loan Application Deadline Date: 11/30/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 07/01/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Washington.

Contiguous Counties:

Utah: Iron, Kane

Arizona: Mohave

Nevada: Lincoln

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13326 6 and for economic injury is 13327 0.

The States which received an EIDL Declaration # are Utah, Arizona, Nevada.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 1, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–24839 Filed 10–9–12; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13328 and #13329]

Oklahoma Disaster #OK–00066

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of OKLAHOMA dated 10/01/2012.

Incident: Luther Wildfire.

Incident Period: 08/03/2012 Through 08/10/2012.

Effective Date: 10/01/2012.

Physical Loan Application Deadline Date: 11/30/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 07/01/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Oklahoma.

Contiguous Counties:

Oklahoma: Canadian, Cleveland, Kingfisher, Lincoln, Logan, Pottawatomie.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.375
Homeowners Without Credit Available Elsewhere	1.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 13328 5 and for economic injury is 13329 0.

The State which received an EIDL Declaration # is Oklahoma.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: October 1, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–24840 Filed 10–9–12; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8058]

Determination by the Secretary of State Relating to Iran Sanctions

AGENCY: Department of State.

This notice is to inform the public that the Secretary of State determined, on September 14, 2012, pursuant to Section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA) (Pub. L. 112–81), as amended by the Iran Threat Reduction and Syria Human Rights Act (Pub. L. 112–158), that as of September 14, 2012, each of the following countries has qualified for the 180-day exception outlined in section 1245(d)(4)(D): Belgium, Czech Republic, France, Germany, Greece, Italy, Japan,

Netherlands, Poland, Spain, and the United Kingdom. The Secretary of State made the initial exception determinations under Section 1245(d)(4)(D) of the NDAA regarding these countries on March 20, 2012.

FOR FURTHER INFORMATION CONTACT: Carlos Pascual, Special Envoy and Coordinator, Bureau of Energy Resources, (202) 647–8543.

Dated: October 01, 2012.

Carlos Pascual,

Bureau of Energy Resources, Department of State.

[FR Doc. 2012–24900 Filed 10–9–12; 8:45 am]

BILLING CODE 4710–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Smyrna-Rutherford County Airport, Smyrna, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the release of land at the Smyrna-Rutherford County Airport, Smyrna, Tennessee. This property, approximately 166 acres on the east side of the airport, and 56 acres on the west side of the airport will change to a non-aeronautical use. This action is taken under the provisions of 49 U.S.C. Section 47107(h)(2) requiring public notice before a waiver of property used for an aeronautical purpose is granted.

DATES: Comments must be received on or before *November 9, 2012.*

ADDRESSES: Documents are available for review at the Smyrna—Rutherford County Airport, 278 Doug Warpoole Road, Smyrna, Tennessee 37167 and the FAA Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. Written comments on the Sponsor's request must be delivered or mailed to: Mr. Phillip J. Braden, Manager, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. John R. Black, Executive Director, Smyrna-Rutherford County Airport Authority, 278 Doug Warpoole Road, Smyrna, Tennessee 37167

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thompson, Program Manager, Federal Aviation Administration, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property at the Smyrna-Rutherford County Airport, Smyrna, Tennessee under the provisions of 49 U.S.C. 47107(h)(2).

On October 1, 2012, the FAA determined that the request to release property at Smyrna-Rutherford County Airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than *November 9, 2012.*

The following is a brief overview of the request:

The Smyrna-Rutherford County Airport is proposing the release of approximately 166 acres on the east side of the airport, and 56 acres on the west side of the airport so the property can be designated as available for non-aeronautical lease at the airport. This property is located as follows:

122 Acres—located on the west side of the airport between Threet Industrial Drive and Doug Warpoole Road

56 Acres—located on the west side of the airport between the airport service road and the Cargo Apron.

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 request, notice and other documents germane to the request in person at the Tennessee Department of Transportation, Division of Aeronautics.

Issued in Memphis, TN on October 1, 2012.

Phillip J. Braden

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 2012–24662 Filed 10–9–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the McKellar-Sipes Regional Airport, Jackson, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the release of land at the McKellar-Sipes Regional Airport, in the city of Jackson, TN. This property, approximately 4.0 acres, will change to a non-aeronautical use. This action is taken under the provisions of 49 U.S.C. Section 47107(h)(2) requiring public notice before a waiver of property designated to be used for an aeronautical purpose is granted.

DATES: Comments must be received on or before November 9, 2012.

ADDRESSES: Documents are available for review at the McKellar-Sipes Regional Airport, 308 Grady Montgomery Drive, Jackson, TN. 38301 and the FAA Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. Written comments on the Sponsor's request must be delivered or mailed to: Mr. Phillip J. Braden, Manager, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. Steve Smith, Executive Director, Jackson—Madison County Airport Authority, 308 Grady Montgomery Drive, Jackson, TN. 38301.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thompson, Program Manager, Federal Aviation Administration, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property at the McKellar-Sipes Regional Airport, Jackson, TN Under the provisions of 49 U.S.C. 47107(h)(2).

On October 1, 2012, the FAA determined that the request to release property at McKellar-Sipes Regional Airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than November 9, 2012.

The following is a brief overview of the request:

The McKellar-Sipes Regional Airport is proposing the release of approximately 4.0 acres of airport property so the property can be used to accommodate the construction of a new Madison County Fire Department vehicle maintenance facility. This property is located on Technology Center Drive adjacent to the Tennessee Technology Center outside of the airport perimeter fence.

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 request, notice and other documents germane to the request in person at the Tennessee Department of Transportation, Division of Aeronautics.

Issued in Memphis, TN on October 1, 2012.

Phillip J. Braden,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 2012–24679 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the proposed State Route 11 and Otay Mesa East Land Port of Entry in the City and County of San Diego, State of California. These actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before April 8, 2013. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Manuel E. Sánchez, Senior Transportation Engineer/Border Engineer, Federal Highway Administration—California Division, 401 B Street, Suite 800, San Diego, CA 92101, Regular Office Hours: 6:30 a.m. to 4:00 p.m., Telephone: (619) 699–7336, Email: *manuel.sanchez@dot.gov,* or Bruce L. April, Deputy District Director—Environmental, Caltrans District 11, 4050 Taylor Street, MS 242, San Diego, CA 92110, Regular Office Hours: 8:00 a.m. to 5:00 p.m., Telephone: (619) 688–0100, Email: *Bruce_April@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of California: The State Route 11 and the Otay Mesa East Port of Entry in City and County of San Diego, California. The selected Tier II Preferred Modified Two Interchange Alternative consists of SR–11, which will be constructed as a 2.1-mile, four-lane toll highway, with two lanes in each direction, plus auxiliary lanes and connectors from Harvest Road for approximately 1.5 miles, before curving to the southeast near Alta Road and continuing for approximately 0.6 mile to connect with the new Otay Mesa Port Of Entry (POE)/Commercial Vehicle Enforcement Facility (CVEF) site. SR–11 will cross four local surface streets: Sanyo Avenue, Enrico Fermi Drive, Alta Road, and Siempre Viva Road. Modifications to SR–905 to accommodate its connections with SR–11 will occur between the SR–905/SR–125/SR–11 Interchange and the SR–905/Britannia Boulevard Interchange. These modifications will include the construction of two-lane connectors between the two highways, the addition of an auxiliary lane between La Media Road and the eastbound SR–11 connector, and the tapering of these connectors to match SR–905 in the vicinity of the Britannia Boulevard Interchange. On the westbound side of SR–905, the proposed project will also construct a ramp from SR–11 to tie into the planned SR–905 and SR–125 off-ramps to La Media Road. SR–11 will include a full interchange at Enrico Fermi Drive and partial interchange at Siempre Viva Road, as well as an undercrossing at Sanyo Avenue and an overcrossing at Alta Road. The POE will occupy approximately 101 acres, and will accommodate northbound and southbound commercial and passenger traffic, as well as pedestrians and bicycles. The proposed project also includes a new CVEF, which will occupy approximately 18 acres east of SR–11 along the northern POE boundary. Total new R/W acquisition associated with the Modified Two Interchange Alternative would be approximately 236.6 acres.

The actions by the FHWA and other Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on March 29, 2012, in the FHWA Record of Decision (ROD) issued on September 24, 2012, and other key documents. The FEIS and ROD are available by contacting FHWA at the address provided above. The FHWA FEIS can be viewed and downloaded from the project Web site at: *http://www.dot.ca.gov/dist11/Env_docs/SR11/Final_tech.html.*

The FEIS can also be viewed at public libraries in the project area.

Pending federal actions include:

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. *General:* National Environmental Policy Act of 1969, as amended [42 U.S.C. 4321 et seq.*];* Federal-Aid Highway Act [23 U.S.C 109];

2. *Air:* Clean Air Act Amendments of 1990 (CAAA) *[*[42 U.S.C. 7401–7671(q)]*;*

3. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251–1377 [Section 404, Section 401, Section 319]; Safe Drinking Water Act [42 U.S.C. 300f et seq.]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–129];

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544]; Migratory Bird Treaty Act [16 U.S.C. 703–712];

5. *Land:* Federal Land Policy and Management Act of 1976 (Paleontological Resources)

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f]

7. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209]

Executive Orders: E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 13112, Invasive Species. Nothing in this notice creates a cause of action under these Executive Orders.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1)

Issued on: October 3, 2012.

Vincent P. Mammano,

Division Administrator, Federal Highway Administration, Sacramento, California.

[FR Doc. 2012–24934 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2012–0217]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 17 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective October 10, 2012. The exemptions expire on October 10, 2014.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

Background

On August 14, 2012, FMCSA published a notice of receipt of Federal diabetes exemption applications from 17 individuals and requested comments from the public (77 FR 48587). The public comment period closed on September 13, 2012, and no comments were received.

FMCSA has evaluated the eligibility of the 17 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 17 applicants have had ITDM over a range of 1 to 22 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the August 14, 2012, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA did not receive any comments in this proceeding.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized

Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 17 exemption applications, FMCSA exempts Victor E. Angelo, Jr. (PA), David M. Atkins (SC), Roger A. Black (IN), Dominick Bravata (IL), Barry J. Drews (MI), Donald T. Farris (MS), Mark A. Hadrava (MN), Mason L. Hall (SD), Chad E. Hasler (MT), Norman A. Latondresse (RI), Robert C. Lister (OH), Roy E. Macomber (WA), Timothy J. Peterson (NE), Jim R. Phillippi (NE), Daryl E. Rohn, Jr. (WA), Robert E. Smith (GA) and Steven A. Wilson (FL) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the 1/exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 26, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012–24925 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2012–0003]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 23, 2011, the McCreary County Heritage Foundation, Inc. (MCHF), on behalf of the Big South Fork Scenic Railway (BSFSRY), has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 215.303. FRA assigned the petition Docket Number FRA–2012–0003.

Specifically, MCHF/BSFSRY seeks a waiver of compliance from the railroad freight car safety standards found at 49 CFR 215.303, which requires stenciling on restricted freight cars in clearly legible letters ''R'' followed by the basis of the restriction. This request is made for seven flatcars that were modified as ''open air'' and enclosed passenger cars (Car Numbers K&T 1001, 1002, 1003, 1004, 1005, 1006, and 1007) and one caboose (Car Number K&T Cab. 1).

As information, MCHF/BSFSRY also requested a Special Approval to continue in service the same cars in accordance with 49 CFR 215.203(c). The ages of these cars are more than 50 years from their original construction dates, and therefore, are restricted per 49 CFR 215.203(a), unless MCHF/BSFSRY receives a Special Approval from FRA.

MCHF/BSFSRY states that it is a 501(c)3 not-for-profit organization. This tourist railroad operates on a 7-mile portion of former Kentucky & Tennessee Railway right-of-way out of Stearns, KY. Operation of BSFSRY is entirely for historical, educational, and excursion purposes by employees of MCHF. BSFSRY is a non-insular tourist operation and does not interchange any of the equipment subject to this petition with the general system of railroads.

MCHF was incorporated in Kentucky in 1987. Since 2000 MCHF has operated BSFSRY as a historical tourist railroad for the purpose of providing an opportunity or the public to view and experience a ride on the historic Kentucky & Tennessee Railway into the river gorge of the Big South Fork of the Cumberland River. The cars are operated at a maximum speed of 15 mph, typically 16–30 times a month from April through October, and average 80 miles per week. Special trains are operated 6–12 times a month in October, November, and December, and these cars travel an average of 50 miles per week. These cars carry no more than 15 tons of payload (passengers and modifications), which is less than 30 percent of their original design capacities of 40 to 60 tons. The caboose subject to this petition is used as a passenger car for small private parties. A BSFSRY attendant is always onboard the caboose.

BSFSRY states that the cars subject to this petition do not interchange with any railroad and as such are in captive service. The stenciling requirement would affect the appearance of the renovated cars that have been preserved for historical, educational, and interpretive purposes.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 26, 2012 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or online at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on October 2, 2012.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2012–24916 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2012–0054]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated June 15, 2012, the National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 242.403–(b), (c)(1)–(3), (d), (e)(1)–(4), (e)(6)–(11), (e)(13) and f(1)–(2). FRA assigned the petition Docket Number FRA–2012–0054.

The Confidential Close Call Reporting System (C3RS) pilot project for Amtrak was initially approved by FRA on May 11, 2010. In Docket Number FRA–2010–27678, Amtrak requested and was granted a waiver of certain provisions of 49 CFR Part 240, which governs the certification of locomotive engineers, to support the pilot project. On May 11, 2010, FRA granted the waiver for a period of 5 years. The railroad now requests a similar waiver from the conductor certification regulations for purposes of participating in the C3RS pilot project. Amtrak, the Brotherhood of Locomotive Engineers and Trainmen, and the United Transportation Union desire to shield the reporting employee and the railroad from punitive sanctions that would otherwise arise, as provided in selected sections of 49 CFR Part 242, to encourage conductor reporting of close calls and protect conductors and Amtrak from discipline or sanctions arising from the incidents reported pursuant to the Memorandum of Understanding for the C3RS, dated May 11, 2010.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays. If you do not have access to the Internet, please contact FRA's Docket Clerk at (202) 493–6030, who will provide necessary information concerning the contents of the petition.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate Docket Number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within November 26, 2012 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78,) or online at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on October 2, 2012.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2012–24920 Filed 10–9–12; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1102X]

Indiana Northeastern Railroad Company—Abandonment Exemption—In Branch and St. Joseph Counties, MI

Indiana Northeastern Railroad Company (IN) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon 19.37 miles of rail line located between milepost 81.32 near Coldwater in Branch County, Mich., and milepost 100.69 near Sturgis in St. Joseph County, Mich. (the Line). The Line traverses United States Postal Service Zip Codes 49036, 49028, 49030 and 49091.

IN has certified that: (1) No local traffic has moved over the Line for at least two years; (2) overhead traffic on the Line, if any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 8, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 19, 2012. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 29, 2012, with the Surface Transportation Board, 395 E

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing and Related Servs.—2012 Update,* EP 542 (Sub-No. 20) (STB served July 27, 2012).

Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Carl M. Miller, Miller & Harants, 618 Professional Park Drive, New Haven, IN 46774.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

IN has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by October 12, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1 (800) 877–3339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), IN shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by filing of a notice of consummation by October 9, 2013, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: October 2, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–24797 Filed 10–9–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 433 (Sub-No. 4X)]

Idaho Northern & Pacific Railroad Company—Discontinuance of Trackage Rights Exemption—in Canyon, Payette and Washington Counties, ID

On September 19, 2012, Idaho Northern & Pacific Railroad Company (INPR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue overhead trackage rights over a 53.09-mile line of railroad owned by Union Pacific Railroad Company, between milepost 519.0 at Weiser, and milepost 465.91, at Caldwell Junction, in Canyon, Payette and Washington Counties, Idaho.[1] The line traverses U.S. Postal Service Zip Codes 83605, 83607, 83660, 83661, 83672, and 97914.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 7, 2013.

Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 1105.8(b).

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

All filings in response to this notice must refer to Docket No. AB 433 (Sub-No. 4X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Karl Morell, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005. Replies to the petition are due on or before October 29, 2012.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: October 3, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2012–24796 Filed 10–9–12; 8:45 am]

BILLING CODE 4915–01–P

[1] INPR was granted authority to acquire the trackage rights as part of the transaction in *Idaho Northern & Pacific Railroad Company—Lease, Acquisition and Operation Exemption—Union Pacific Railroad Company,* FD 32370 (ICC served Dec. 7, 1993). According to INPR, the portion of the trackage rights located between milepost 465.91, at Caldwell Junction, and milepost 454.0, at Nampa, was assigned to Boise Valley Railroad, Inc., in *Boise Valley Railroad, Inc.—Assignment of Lease Exemption—Union Pacific Railroad Company and Idaho Northern & Pacific Railroad Company,* FD 35259 (STB served Oct. 2, 2009).

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Two Entities Pursuant to Executive Orders

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of two entities whose property and interests in property are blocked pursuant to Executive Order 13619 of July 11, 2012, ''Blocking Property of Persons Threatening the Peace, Security, or Stability of Burma'' and Executive Order 13464 of April 30, 2008, ''Blocking Property and Prohibiting Certain Transactions Related to Burma.''

DATES: The designation by the Director of OFAC of the two entities named in this notice, pursuant to Executive Order 13619 and Executive Order 13464, is effective July 11, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On July 11, 2012, President Barack Obama signed Executive Order 13619, ''Blocking Property of Persons Threatening the Peace, Security, or

Stability of Burma'' (''E.O. 13619''), 77 Fed. Reg. 41243 (July 13, 2012), pursuant to, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), which modifies the scope of the national emergency declared in Executive Order 13047 of May 20, 1997, as modified in scope in Executive Order 13448 of October 18, 2007, and relied upon for additional steps taken in Executive Order 13310 of July 28, 2003, Executive Order 13448 of October 18, 2007, and Executive Order 13464 of April 30, 2008.

Section 1(a) of E.O. 13619 blocks, with certain exceptions, all property and interests in property that are in, that hereafter come within, the United States, or that are or hereafter come within the possession or control of any United States person, including any foreign branch, of persons determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State, to satisfy any of the criteria set forth in subparagraphs (a)(i)–(a)(vi) of Section 1. On July 11, 2012, the Director of OFAC, in consultation with or at the recommendation of the Department of State designated, pursuant to one or more of the criteria set forth in Section 1, subparagraphs (a)(i)–(a)(vi) of E.O. 13619, the following entity, whose name has been added to the list of Specially Designated Nationals and Blocked Persons and whose property and interests in property are blocked pursuant to E.O. 13619:

1. DIRECTORATE OF DEFENCE INDUSTRIES (a.k.a. KA PA SA; a.k.a. ''DDI''), Burma; Ministry of Defense, Shwedagon Pagoda Road, Yangon, Burma [BURMA]

On April 30, 2008, President George W. Bush signed Executive Order 13464 ''Blocking Property and Prohibiting Certain Transactions Related to Burma'' (''E.O. 13464''), pursuant to, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et. seq.*). In E.O. 13464, President George W. Bush took additional steps with respect to the national emergency declared in Executive Order 13047 of May 20, 1997, and expanded in Executive Order 13448 of October 18, 2007.

Section 1 of E.O. 13464 blocks, with certain exceptions, all property and interests in property that are in, that hereafter come within, the United States, or that are or hereafter come within the possession or control of any United States person, including their overseas branches, of the persons listed in the annex to E.O. 13464, as well as those persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to satisfy any of the criteria set forth in subparagraphs (b)(i)–(b)(iii) of Section 1. On July 11, 2012, the Director of OFAC, after consultation with the Department of State, designated, pursuant to one or more of the criteria set forth in Section 1, subparagraphs (b)(i)–(b)(iii) of E.O. 13464, the following entity, whose name has been added to the list of Specially Designated Nationals and Blocked Persons and whose property and interests in property are blocked pursuant to E.O. 13464:

1. INNWA BANK LTD (a.k.a. INNWA BANK), 554–556 Corner of Merchant Street and 35th Street, Kyauktada Township, Yangon, Burma; SWIFT/BIC AVAB MM M1 [BURMA].

Dated: September 24, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–24181 Filed 10–9–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before December 10, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and the Internal Revenue Service, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Information Collections Open for Comment

Currently, the IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

Title: Low-Income Housing Credit.

OMB Number: 1545–0984.

Form Number: 8586.

Abstract: Internal Revenue Code section 42 permits owners of residential rental projects providing low-income housing to claim a tax credit for part of the cost of constructing or rehabilitating such low-income housing. Form 8586 is used by taxpayers to compute the credit and by the IRS to verify that the correct credit has been claimed.

Current Actions: There is no change being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and businesses, or other for-profit organizations.

Estimated Number of Respondents: 7,786.

Estimated Time per Respondent: 11 hours, 34 minutes.

Estimated Total Annual Burden Hours: 68,517.

Title: Stock Transfer Rules: Carryover of Earnings and Taxes.

OMB Number: 1545–1711.

Regulation Project Number: REG–116050–99.

Abstract: The final regulations relate to the carryover of certain tax attributes, such as earnings and profits and foreign income tax accounts, when two corporations combine in a section 367(b) transaction.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 600.

Estimated Time per Respondent: 8 hours.

Estimated Total Annual Burden Hours: 1,800.

Title: Health Coverage Tax Credit (HCTC) Reimbursement Request Form.

OMB Number: 1545–2152.

Abstract: This form will be used by HCTC participants to request reimbursement for health plan premiums paid prior to the commencement of advance payments.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,058.

Estimated Time per Respondent: 40 minutes.

Estimated Total Annual Burden Hours: 2,039.

Title: Work Opportunity Credit.

OMB Number: 1545–0219.

Form Number: 5884.

Abstract: Internal Revenue Code section 38(b)(2) allows a credit against income tax to employers hiring individuals from certain targeted groups such as welfare recipients, etc. The employer uses Form 5884 to compute this credit. The IRS uses the information on the form to verify that the correct amount of credit was claimed.

Current Actions: There are no changes to this at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations and farms.

Estimated Number of Responses: 59,819.

Estimated Total Annual Burden Hours: 415,144.

Title: Application for Renewal of Enrollment To Practice Before the Internal Revenue Service.

OMB Number: 1545–0946.

Form Number: 8554.

Abstract: The information obtained from Form 8554 relates to the approval of continuing professional education programs and the renewal of the enrollment status for those individuals admitted (enrolled) to practice before the Internal Revenue Service. The information will be used by the Director of Practice to determine the qualifications of individuals who apply for renewal of enrollment.

Title: Application for Renewal of Enrollment to Practice Before the Internal Revenue Service as an Enrolled Retirement Plan Agent (ERPA).

OMB Number: 1545–0946.

Form Number: 8554–EP.

Abstract: This form is used to renew your Enrolled Retirement Plan Agent (ERPA) status. You must renew your enrollment status every 3 years. For additional information on renewals, see Circular 230 or visit the Office of Professional Responsibility Web site at *www.irs.gov.*

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 96,000.

Estimated Total Annual Burden Hours: 48,000.

Title: Notification of Distribution From a Generation-Skipping Trust.

OMB Number: 1545–1143.

Form Number: 706–GS(D–1).

Abstract: Form 706–GS(D–1) is used by trustees to provide information to the IRS and to distributees regarding generation-skipping distributions from trusts. The information is needed by distributees to compute the generation-skipping tax imposed by Internal Revenue Code section 2601. The IRS uses the information to verify that the tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 80,000.

Estimated Time per Respondent: 4 hours, 22 minutes.

Estimated Total Annual Burden Hours: 348,800.

Title: Revenue Procedure 97–43, Procedures for Electing Out of Exemptions Under Section 1.475(c)–1, and Revenue Ruling 97–39, Mark-to-Market Accounting Method for Dealers in Securities.

OMB Number: 1545–1558.

Revenue Procedure Number: Revenue Procedure 97–43.

Revenue Ruling Number: Revenue Ruling 97–39.

Abstract: Revenue Procedure 97–43 provides taxpayers automatic consent to change to mark-to-market accounting for securities after the taxpayer elects under regulation section 1.475(c)–1, subject to certain terms and conditions. Revenue Ruling 97–39 provides taxpayers additional mark-to-market guidance under section 475 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure or revenue ruling at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 1,000.

Title: Section 1445 Withholding Certificates.

OMB Number: 1545–1697.

Revenue Procedure Number: Revenue Procedure 2003–35.

Abstract: Revenue Procedure 2003–35 provides guidance concerning applications for withholding certificates under Code section 1445.

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, and business or other for-profit organizations.

Estimated Number of Respondents: 6,000.

Estimated Average Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 60,000.

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.

Approved: September 25, 2012.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–24744 Filed 10–9–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Price for the American Eagle Silver Proof and Uncirculated Coins and the America the Beautiful Five Ounce Silver Uncirculated Coins™

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: Because of the recent increase in the market price of silver, the United States Mint is raising the price of its American Eagle Silver Proof and Uncirculated Coins and the America the Beautiful Five Ounce Silver Uncirculated Coins™ as follows:

Coin	New price
2012 American Eagle Silver Proof	$59.95
2012 American Eagle Silver Uncirculated	50.95
2011 American Eagle Silver Uncirculated	50.95
2011 Gettysburg National Military Park	229.95
2011 Glacier National Park	229.95
2011 Olympic National Park	229.95
2011 Vicksburg National Military Park	229.95
2011 Chickasaw National Recreation Area	229.95
2012 El Yunque National Forest	229.95
2012 Chaco Culture National Historical Park	229.95
2012 Acadia National Park	229.95
2012 Hawai'i Volcanoes National Park	229.95

FOR FURTHER INFORMATION CONTACT: B.B. Craig, Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: October 2, 2012.

Richard A. Peterson,

Acting Director, United States Mint.

[FR Doc. 2012–24778 Filed 10–9–12; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 77 Wednesday,

No. 196 October 10, 2012

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Species Status for the Alabama Pearlshell, Round Ebonyshell, Southern Kidneyshell, and Choctaw Bean, and Threatened Species Status for the Tapered Pigtoe, Narrow Pigtoe, Southern Sandshell, and Fuzzy Pigtoe, and Designation of Critical Habitat; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2011–0050; 4500030113]

RIN 1018–AW92

Endangered and Threatened Wildlife and Plants; Determination of Endangered Species Status for the Alabama Pearlshell, Round Ebonyshell, Southern Kidneyshell, and Choctaw Bean, and Threatened Species Status for the Tapered Pigtoe, Narrow Pigtoe, Southern Sandshell, and Fuzzy Pigtoe, and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, determine endangered species status for the Alabama pearlshell (*Margaritifera marrianae*), round ebonyshell (*Fusconaia rotulata*), southern kidneyshell (*Ptychobranchus jonesi*), and Choctaw bean (*Villosa choctawensis*), and threatened species status for the tapered pigtoe (*Fusconaia burkei*), narrow pigtoe (*Fusconaia escambia*), southern sandshell (*Hamiota australis*), and fuzzy pigtoe (*Pleurobema strodeanum*), under the Endangered Species Act of 1973, as amended (Act); and designate critical habitat for the eight mussel species. The effect of this regulation is to conserve these eight mussel species and their habitat under the Act.

DATES: This rule becomes effective on November 9, 2012.

ADDRESSES: This final rule, final economic analysis, and the coordinates from which the maps were generated are included in the administrative record for this critical habitat designation and are available on the Internet at *http://www.fws.gov/PanamaCity* and *http://www.regulations.gov* at Docket No. FWS–R4–ES–2011–0050, and at the Panama City FieldOffice. Any additional tools or supporting information that we may develop for this critical habitat designation will also be available at the Fish and Wildlife Service Web site and Field Office set out above, and may also be included in the preamble and/or at *http://www.regulations.gov*. Comments and materials received, as well as supporting documentation used in preparing this final rule, are available for public inspection, by appointment, during normal business hours, at U.S. Fish and Wildlife Service, Panama City Field Office, 1601 Balboa Avenue, Panama City, FL 32405; telephone 850–769–0552; facsimile 850–763–2177.

FOR FURTHER INFORMATION CONTACT: Don Imm, Field Supervisor, U.S. Fish and Wildlife Service, Panama City Field Office, 1601 Balboa Avenue, Panama City, FL 32405; telephone 850–769–0552; facsimile 850–763–2177. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: This document consists of: (1) A final rule to list the Alabama pearlshell (*Margaritifera marrianae*), round ebonyshell (*Fusconaia rotulata*), southern kidneyshell (*Ptychobranchus jonesi*), and Choctaw bean (*Villosa choctawensis*) as endangered species, and the tapered pigtoe (*Fusconaia burkei*), narrow pigtoe (*Fusconaia escambia*), southern sandshell (*Hamiota australis*), and fuzzy pigtoe (*Pleurobema strodeanum*) as threatened species; and (2) a final rule to designate critical habitat for the eight species.

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act (Act), a species or subspecies may warrant protection through listing if it is an endangered or threatened species throughout all or a significant portion of its range. We are listing these eight mussels because they have disappeared from portions of their historic ranges or are very rare, and facing numerous ongoing threats. The Alabama pearlshell and southern kidneyshell no longer occur in 50 percent or more of the stream systems in which they were historically found. The round ebonyshell is extremely rare, and its distribution is restricted to the main channel of the Escambia-Conecuh River. Choctaw bean populations in the Escambia River drainage are fragmented, and the species' numbers are low throughout its range. The narrow pigtoe, fuzzy pigtoe, southern sandshell, and tapered pigtoe still occur in much of their known range but have disappeared from many of the tributary and main channel locations from which they were historically known. All are facing a variety of threats. However, habitat degradation and loss as a result of excessive sedimentation, bed destabilization, poor water quality, and environmental contaminants are considered the most significant threats to these eight mussels. We are also designating critical habitat under the Act. Critical habitat is designated on the basis of the best scientific information available after taking into consideration the economic impact, impact on national security, and any other relevant impact of specifying any particular area as critical habitat. In total, approximately 2,404 kilometers (km) (1,494 miles (mi.)) of stream and river channels in nine units in Bay, Escambia, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington Counties, Florida; and Barbour, Bullock, Butler, Coffee, Conecuh, Covington, Crenshaw, Dale, Escambia, Geneva, Henry, Houston, Monroe, and Pike Counties, Alabama, are being designated.

The basis for our action. Under the Act, a species may be listed as an endangered or threatened species based on any of five factors: (A) The present destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its existence. These eight mussel species are facing threats due to three of these five factors (A, D and E). The Act also requires that the Service designate critical habitat at the time of listing to the maximum extent prudent and determinable. We have determined that the designation is prudent and critical habitat is determinable for each of the eight species (see Critical Habitat section below).

We prepared an economic analysis. To ensure that we consider the economic impacts, we prepared an economic analysis of the designation of critical habitat. We published an announcement and solicited public comments on the draft economic analysis. The analysis found that the estimated incremental economic cost of this critical habitat designation to be $1.70 million over a 20-year time frame. The majority of the economic impacts are associated with the transportation sector, particularly consultation costs associated with the replacement and maintenance of bridges and roads.

We requested peer review of the methods used in our proposed listing and critical habitat designation. We specifically requested that four knowledgeable individuals with scientific expertise on freshwater mussel conservation and biology, and who are familiar with the eight species and the three river basins in which they occur, review the scientific information and methods in the proposed rule. The peer reviewers generally concurred with our methods and conclusions and provided additional information,

clarifications, and suggestions to improve the final rule.

We sought public comment on the designation. During the first comment period, we received five comment letters directly addressing the proposed listing and critical habitat designation. During the second comment period, we received four comment letters addressing the proposed listing and critical habitat designation, and the draft economic analysis.

Background

It is our intent to discuss in this final rule only those topics directly relevant to the listing and designation of critical habitat for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe under the Act (16 U.S.C. 1531 *et seq.*). For more information on the biology, ecology, and critical habitat of these eight mussel species refer to the proposed rule published in the **Federal Register** on October 4, 2011 (76 FR 61482). Information on the associated draft economic analysis for the proposed rule was published in the **Federal Register** on March 27, 2012 (77 FR 18173).

Previous Federal Actions

On October 4, 2011, we published the proposed rule to list and designate critical habitat for these eight mussels (76 FR 61482). Federal actions for these species prior to October 4, 2011, are outlined in the proposed rule. Publication of the proposed rule opened a 60-day comment period, which closed on December 5, 2011. On March 27, 2012 (77 FR 18173), we reopened the comment period for 30 days, from March 27 through April 26, 2012, in order to announce the availability of and receive comments on a draft economic analysis, and to extend the comment period on the proposed listing and critical habitat designation.

Introduction

North American freshwater mussel fauna is the richest in the world and historically numbered around 300 species (Williams *et al.* 1993, p. 6). Freshwater mussels are in decline, however, and in the past century have become more imperiled than any other group of organisms (Williams *et al.* 2008, p. 55; Natureserve 2011). Approximately 66 percent of North America's freshwater mussel species are considered vulnerable to extinction or possibly extinct (Williams *et al.* 1993, p. 6). Within North America, the southeastern United States is the hot spot for mussel diversity. Seventy-five percent of southeastern mussel species are in varying degrees of rarity or possibly extinct (Neves *et al.* 1997, pp. 47–51). The central reason for the decline of freshwater mussels is the modification and destruction of their habitat, especially from sedimentation, dams, and degraded water quality (Neves *et al.* 1997, p. 60; Bogan 1998, p. 376). These eight mussels, like many other southeastern mussel species, have undergone reductions in total range and population density.

These eight species are all freshwater bivalve mussels of the families Margaritiferidae and Unionidae. The Alabama pearlshell is a member of the family Margaritiferidae, while the round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe belong to the family Unionidae. These mussels are endemic to (found only in) portions of three Coastal Plain rivers that drain south-central and southeastern Alabama and northwestern Florida: the Escambia (known as the Escambia River in Florida and the Conecuh River in Alabama), the Yellow, and the Choctawhatchee. All three rivers originate in Alabama and flow across the Florida panhandle before emptying into the Gulf of Mexico, and are entirely contained within the East Gulf Coastal Plain Physiographic Region. The Alabama pearlshell is also known from three locations in the Mobile River Basin; however, only one of those is considered to be currently occupied.

General Biology

Freshwater mussels generally live embedded in the bottom of rivers, streams, and other bodies of water. They siphon water into their shells and across four gills that are specialized for respiration and food collection. Food items include detritus (disintegrated organic debris), algae, diatoms, and bacteria (Strayer *et al.* 2004, pp. 430–431). Adults are filter feeders and generally orient themselves on or near the substrate surface to take in food and oxygen from the water column. Juveniles typically burrow completely beneath the substrate surface and are pedal (foot) feeders (bringing food particles inside the shell for ingestion that adhere to the foot while it is extended outside the shell) until the structures for filter feeding are more fully developed (Yeager *et al.* 1994, pp. 200–221; Gatenby *et al.* 1996, p. 604).

Sexes in margaritiferid and unionid mussels are usually separate. Males release sperm into the water column, which females take in through their siphons during feeding and respiration. Fertilization takes place inside the shell. The eggs are retained in the gills of the female until they develop into mature larvae called glochidia. The glochidia of most freshwater mussel species, including all eight species addressed in this rule, have a parasitic stage during which they must attach to the gills, fins, or skin of a fish to transform into a juvenile mussel. Depending on the mussel species, females release glochidia either separately, in masses known as conglutinates, or in one large mass known as a superconglutinate. The duration of the parasitic stage varies by mussel species, water temperature, and perhaps host fish species. When the transformation is complete, the juvenile mussels drop from their fish host and sink to the stream bottom where, given suitable conditions, they grow and mature into adults.

Survey Data

Recent distributions are based on surveys conducted from 1995 to 2012. Historical distributions are based on collections made prior to 1995. Historical distribution data from museum records and surveys dated between the late 1800s and 1994 are sparse, and most of these species were more than likely present throughout their respective river basins. Knowledge of historical and current distribution and abundance data were summarized from Butler 1989; Williams *et al.* 2000 (unpublished), Blalock-Herod *et al.* 2002, Blalock-Herod *et al.* 2005, Pilarczyk *et al.* 2006, and Gangloff, and Hartfield 2009. In addition, a status survey was conducted in 2010–2012 by M.M. Gangloff and the final report is in preparation. These studies represent a compilation of museum records and recent status surveys conducted between 1990 and 2007. We also used various other sources to identify the historical and current locations occupied by these species. These include surveys, reports, and field notes prepared by biologists from the Alabama Department of Conservation and Natural Resources, Marion, AL; Geological Survey of Alabama, Tuscaloosa, AL; Florida Fish and Wildlife Conservation Commission, Gainesville, FL; U.S. Geological Survey, Gainesville, FL; Alabama Malacological Research Center, Mobile, AL; Troy University, Troy, AL; Appalachian State University, Boone, NC; various private consulting groups; and the U.S. Fish and Wildlife Service, Daphne, AL, and Panama City, FL. In addition, we obtained occurrence data from the collection databases of the Museum of Fluviatile Mollusks (MFM), Athearn collection; Auburn University Natural History Museum (AUNHM),

Auburn, AL; and Florida Museum of Natural History (FLMNH), Gainesville, FL.

Assessing Status

Assessing the state of a freshwater mussel population is challenging. We looked at trends in distribution (range) by comparing recent occurrence data to historical data, and we examined recent abundance (numbers). One difficulty of investigating population trends over time in these species is the lack of historical collection data within the drainages. Athearn (1964, p. 134) noted the streams of western Florida were inadequately sampled, particularly the lower Choctawhatchee, Yellow, and the lower Escambia Rivers. Blalock-Herod *et al.* (2005, p. 2) stated that little collecting effort had been expended in the Choctawhatchee River drainage as compared to other nearby river systems like the Apalachicola and Mobile river drainages. This paucity of historical occurrence data may create the appearance of an increase in the number of localities that support a species or an expanding range; however, this is likely due to increased sampling efforts and to better sampling methods, like the use of SCUBA gear.

Another difficulty is the lack basic information for some historical collections, including specific locality, total number of species or individuals collected, or collection date. For these reasons, the only accurate comparison that can be made of so many different sources of historical and recent collection data is whether a particular species was detected (present) or not (absent) during the survey. When examining occurrence data, we considered sampled areas in close proximity as the same sight. Generally, areas sampled that are within 2 river km (1.2 mi) (approximately) of each other are considered the same site, and sampled areas that are more than 2 km apart are considered different sites. Occurences are based on live animals and shell material. The occurrence data we examined using GIS mapping software. A summary historical and recent occurrence data, and current abundance is presented in Table 1.

TABLE 1—EIGHT MUSSEL OCCURRENCE AND ABUNDANCE BY RIVER DRAINAGE—OCCURRENCES ARE BASED ON LIVE AND SHELL MATERIAL AND ABUNDANCE IS BASED ON LIVE INDIVIDUALS

Species	Drainage	Historical (pre-1995)			Current (1995–2012)			General assessment
		Historical sites	Historical sites re-surveyed	Historical sites currently occupied	Current sites [1]	Total live collected	Average abundance [2]	
Margaritifera marrianae Alabama pearlshell.	Alabama	3	3	0	0	0	0	Contracted range, limited distribution, very low numbers.
	Escambia	12	12	4	9	28	3.14	
Fusconaia rotulata round ebonyshell.	Escambia	3	2	2	11	8	1.1	Limited distribution, very low numbers.
Ptychobranchus jonesi southern kidneyshell.	Escambia	10	5	0	0	0	0	Contracted range, limited distribution, very low numbers.
	Yellow	1	1	0	0	0	0	
	Choct	12	11	1	10	41	2.5	
Villosa choctawensis Choctaw bean.	Escambia	7	7	1	7	14	1.4	Fragmented populations (Escambia), localized extirpations, low numbers.
	Yellow	4	3	2	4	15	3.0	
	Choct	11	10	3	37	143	3.9	
Fusconaia burkei tapered pigtoe.	Choct	23	22	13	53	361	6.0	Limited distribution, localized extirpations.
Fusconaia escambia narrow pigtoe.	Escambia	13	10	7	28	166	6.9	Localized extirpations, limited distribution, low numbers.
	Yellow	2	2	1	4	23	2.9	
Hamiota australis southern sandshell.	Escambia	6	4	1	6	20	4	Localized extirpations.
	Yellow	5	4	2	17	65	3.1	
	Choct	18	16	5	34	211	4.5	
Pleurobema strodeanum fuzzy pigtoe.	Escambia	30	18	12	26	52	6.5	Nearly extirpated from Yellow drainage, localized extirpations.
	Yellow	4	4	1	1	1	1	
	Choct	18	15	8	59	587	9.9	

[1] Includes all currently occupied sites, both historic and new.
[2] Average number of live individuals collected per site.

We also considered each species' relative abundance in comparison to other mussel species with which they co-occur. In addition, we relied on various published documents whose authors are considered experts on these species. These publications either described the status of these species or assigned a conservation ranking, and include Williams *et al.* 1993, Williams and Butler 1994; Mirarchi *et al.* 2004, Blalock-Herod *et al.* 2005, and Williams *et al.* 2008.

Most of the eight species have experienced a decline in populations and numbers of individuals within populations, but not all have experienced a decline in range. Recent, targeted surveys for the Alabama pearlshell and southern kidneyshell show a dramatic decline in historical range. The Choctaw bean, narrow pigtoe, fuzzy pigtoe, southern sandshell, and tapered pigtoe still occur in much of their historical range; however, they no longer occur at many locations at which they were historically known, and their numbers appear to be declining. The round ebonyshell's current range is larger than its historical range, but this is attributed to the use of dive equipment in recent surveys that allowed access to the species' deep, main channel habitat. Despite this range extension, the species still has a very limited distribution and is considered to be extremely rare.

Taxonomy, Life History, and Distribution

Alabama Pearlshell

The Alabama pearlshell (*Margaritifera marrianae,* Johnson 1983) is a medium-sized freshwater mussel known from a few tributaries of the Alabama and Escambia River drainages in south-central Alabama (Johnson 1983, pp. 299–304; McGregor 2004, p. 40; Williams *et al.* 2008, pp. 98–99). The pearlshell is oblong and grows up to 95 millimeters (mm) (3.8 inches (in)) in length. The outside of the shell (periostracum) is smooth and shiny and somewhat roughened along the posterior slope. The inside of the shell (nacre) is whitish or purplish and moderately iridescent (refer to Johnson 1983 for a full description).

The Alabama pearlshell is one of five North American species in the family Margaritiferidae. The family is represented by only two genera, *Margaritifera* (Schumacher 1816) and *Cumberlandia* (Ortmann 1912). In Alabama, each genus is represented by a single species—the spectaclecase (*Cumberlandia monodonta*) occurs in the Tennessee River Basin (Williams *et al.* 2008, pp. 94–95), and the Alabama pearlshell occurs in the Escambia and Alabama river basins in south Alabama. Prior to 1983, the Alabama pearlshell was thought to be the same species as the Louisiana pearlshell (*Margaritifera hembeli* Conrad 1838) (Simpson 1914; Clench and Turner 1956), a species now considered endemic to central Louisiana.

The Alabama pearlshell typically inhabits small headwater streams with mixed sand and gravel substrates, occasionally in sandy mud, with slow to moderate current. Very little is known about the life-history requirements of this species. However, Shelton (1995, p. 5 unpub. report) suggests that the Alabama pearlshell, as opposed to the Louisiana pearlshell, which occurs in large colonies, typically occurs in low numbers. The Alabama pearlshell is also believed to occur in male-female pairs. Of the 68 Alabama pearlshell observed by Shelton (1995, p. 5 unpub. report), 85 percent occurred in pairs. Males were always located upstream of the females and were typically not more than 1 meter (m) apart, and juveniles were usually found just a few inches apart. The species is believed to be a long-term brooder, where gravid females have been observed in December. The host fish and other aspects of its life history are currently unknown.

Historically, the Alabama pearlshell occurred in portions of the Escambia River drainage, and has also been reported from two systems in the Alabama River drainage. The Alabama pearlshell's known historical and current occurrences, by water body and county, are shown in Table 2 below.

TABLE 2—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE ALABAMA PEARLSHELL

Water body	Drainage	County	State	Historical or current
Big Flat Creek	Alabama	Monroe	AL	Historical and Current.
Brushy Creek	Alabama	Monroe	AL	Historical.
Limestone Creek	Alabama	Monroe	AL	Historical.
Amos Mill Creek	Escambia	Conecuh, Escambia	AL	Current.
Autrey Creek	Escambia	Conecuh	AL	Historical.
Beaver Creek	Escambia	Conecuh	AL	Historical.
Bottle Creek	Escambia	Conecuh	AL	Historical and Current.
Brushy Creek	Escambia	Conecuh	AL	Historical.
Burnt Corn Creek	Escambia	Conecuh	AL	Historical and Current.
Horse Creek	Escambia	Crenshaw	AL	Historical.
Hunter Creek	Escambia	Conecuh	AL	Historical and Current.
Jordan Creek	Escambia	Conecuh	AL	Historical and Current.
Little Cedar Creek	Escambia	Conecuh	AL	Historical and Current.
Murder Creek	Escambia	Conecuh	AL	Historical.
Otter Creek	Escambia	Conecuh	AL	Historical and Current.
Sandy Creek	Escambia	Conecuh	AL	Historical and Current.

The Amos Mill population, discovered in 2010, represents a new record, and possibly the only known surviving population in the Sepulga River drainage. The Burnt Corn and Otter Creek populations reaffirm historical records that had not been reported in nearly 30 years. Two of the Sandy Creek locations, discovered in 2011, are new populations. Since the late 1990s, more than 70 locations within the Alabama River Basin were surveyed for mollusks (McGregor *et al.* 1999, pp. 13–14; Powell and Ford 2010 pers. obs.; Buntin and Fobian 2011 pers. comm.), 35 of which were located in the Limestone and Big Flat Creek drainages, and no live Alabama pearlshell were reported. The last documented occurrence in Big Flat Creek was a fresh dead individual collected in 1995 (Shelton 1999 in litt.), and the last reported occurrence in the Limestone Creek drainage was 1974, where Williams (2009 pers. comm.) reported it as common. Despite numerous visits, the pearlshell has not been collected in this system since 1974. A fresh dead individual collected by Shelton in 1995,

represents the most recent record from the Big Flat Creek drainage.

Recent data suggest that, of the nine remaining populations, the largest may occur in Little Cedar and Otter Mill creeks. In 2011, Fobian and Pritchett reported new populations at two locations in an unnamed tributary to Sandy Creek. Although this is not the first report from the Sandy Creek basin, it is the first for the two unnamed tributaries. In 2010, Buntin and Fobian (2011 pers. comm.) reported 10 live individuals from Otter Creek. This is the first time since 1981 that the pearlshell has been reported from this drainage. Also in 2010, Powell and Ford reported three live individuals, and several relic shells, from Amos Mill Creek, in Escambia County, AL. This is the first report of the pearlshell from this drainage, and county, and the first live individual from the Sepulga River system in nearly 50 years. Little Cedar Creek supported good numbers of Alabama pearlshell in the late 1990's (54 individuals reported in 1998). However, during a qualitative search of the same area in 2005, only two live pearlshell were found (Powell 2005 pers. obs.), and in 2006, three live pearlshells were observed (Johnson 2006 in litt.). Live Alabama pearlshell have not been observed in Hunter Creek since 1998, when eight live individuals were reported (Shelton 1999 in litt.). During two visits to the stream in 1999, Shelton found no evidence of the species (Shelton 1999 in litt.), and reported high levels of sedimentation. However, in 2005 the shells of three fresh dead Alabama pearlshells were reported from Hunter Creek, indicating the persistence of the species in that drainage (Powell, pers. obs. 2005).

Evidence suggests that much of the rangewide decline of this species has occurred within the past few decades. Specific causes of the decline and disappearance of the Alabama pearlshell from historical stream localities are unknown. However, they are likely related to past and present land use patterns. Many of the small streams historically inhabited by the Alabama pearlshell are impacted to various degrees by nonpoint-source pollution.

Round Ebonyshell

The round ebonyshell (*Fusconaia rotulata,* Wright 1899) is a medium-sized freshwater mussel endemic to the Escambia River drainage in Alabama and Florida (Williams *et al.* 2008, p. 320). The round ebonyshell is round to oval in shape and reaches about 70 mm (2.8 in.) in length. The shell is thick and the exterior is smooth and dark brown to black in color. The shell interior is white to silvery and iridescent (Williams and Butler 1994, p. 61; Williams *et al.* 2008, p. 319). The round ebonyshell was originally described by B.H. Wright in 1899 and placed in the genus *Unio.* Simpson (1900) reexamined the type specimen and assigned it to the genus *Obovaria.* Based on shell characters, Williams and Butler (1994, p. 61) recognized it as clearly a species of the genus *Fusconaia,* and its placement in the genus is supported genetically (Lydeard *et al.* 2000, p. 149).

Very little is known about the habitat requirements or life history of the round ebonyshell. It occurs in small to medium rivers, typically in stable substrates of sand, small gravel, or sandy mud in slow to moderate current. It is believed to be a short-term brooder, and gravid females have been observed in the spring and summer. The fish host(s) for the round ebonyshell is currently unknown (Williams *et al.* 2008, p. 320).

The round ebonyshell is known only from the main channel of the Escambia-Conecuh River and is the only mussel species endemic to the drainage (Williams *et al.* 2008, p. 320). Due to recent survey data, its known range was extended downstream the Escambia River to Molino, Florida (Gangloff 2012 pers. comm.), and upstream in the Conecuh River to just above the Covington County line in Alabama (Williams *et al.* 2008, p. 320). The round ebonyshell's known historical and current occurrences, by water body and county, are shown in Table 3 below.

TABLE 3—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE ROUND EBONYSHELL

Water body	Drainage	County	State	Historical or current
Conecuh River	Escambia	Escambia, Covington	AL	Historical and Current.
Escambia River	Escambia	Escambia, Santa Rosa	FL	Historical and Current.

The round ebonyshell has a very restricted distribution (Williams and Butler 1994, p. 61), with its current range (based on live individuals and shell material) confined to approximately 144 km (89 mi) of the Escambia-Conecuh River main channel. The round ebonyshell is also considered to be extremely rare (Williams *et al.* 2008, p. 320). Researchers collected a total of three live individuals during a 2006 dive survey (Shelton *et al.* 2007, pp. 8–10 unpub. report), and 4 more were collected during a dive survey in 2011 (Gangloff 2012 pers. comm). At stations where the species was present in the 2011 survey, 219 mussels were collected for every 1 round ebonyshell. Because its distribution is limited to the main channel of one river, the round ebonyshell is particularly vulnerable to catastrophic events such as flood scour and contaminant spills, and to activities that cause streambed destabilization like gravel mining, dredging, and de-snagging for navigation. Due to its limited distribution and rarity, McGregor (2004, p. 56) considered the round ebonyshell vulnerable to extinction, and classified it as a species of highest conservation concern in Alabama. Williams *et al.* (1993, p. 11) considered the round ebonyshell as endangered throughout its range.

Southern Kidneyshell

The southern kidneyshell (*Ptychobranchus jonesi,* van der Schalie 1934) is a medium-sized freshwater mussel known from the Escambia and Choctawhatchee River drainages in Alabama and Florida, and the Yellow River drainage in Alabama (Williams *et al.* 2008, p. 624). The southern kidneyshell is elliptical and reaches about 72 mm (2.8 in.) in length. Its shell is smooth and shiny, and greenish yellow to dark brown or black in color, sometimes with weak rays. The shell interior is bluish white with some iridescence (Williams and Butler 1994, p. 126; Williams *et al.* 2008, p. 624). The southern kidneyshell was described by H. van der Schalie (1934) as *Lampsilis jonesi.* Following the examination of gills of gravid females, Fuller and Bereza (1973, p. 53) determined it belonged in the genus *Ptychobranchus.* When gravid, the marsupial gills form folds along the outer edge, a characteristic unique to the genus *Ptychobranchus* (Williams *et al.* 2008, p. 609).

Very little is known about the habitat requirements or life history of the southern kidneyshell. It is typically found in medium creeks to small rivers in firm sand substrates with slow to moderate current (Williams *et al.* 2008,

pp. 625). A recent status survey in the Choctawhatchee basin in Alabama found its preferred habitat to be stable substrates near bedrock outcroppings (Gangloff and Hartfield 2009, p. 25). The southern kidneyshell is believed to be a long-term brooder, with females gravid from autumn to the following spring or summer. Preliminary reproductive studies found that females release their glochidia in small conglutinates that are bulbous at one end and tapered at the other (Alabama Aquatic Biodiversity Center 2006, unpub. data). Host fish for the southern kidneyshell are currently unknown; however, darters serve as primary glochidial hosts to other members of the genus *Ptychobranchus* (Luo 1993, p. 16; Haag and Warren 1997, p. 580).

The southern kidneyshell is endemic to the Escambia, Choctawhatchee, and Yellow River drainages in Alabama and Florida (Williams *et al.* 2008, p. 624), but is currently known only from the Choctawhatchee River drainage. The southern kidneyshell's known historical and current occurrences, by water body and county, are shown in Table 4 below.

TABLE 4—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE SOUTHERN KIDNEYSHELL

Water body	Drainage	County	State	Historical or current
Burnt Corn Creek	Escambia	Escambia	AL	Historical.
Jordan Creek	Escambia	Conecuh	AL	Historical.
Sepulga River	Escambia	Conecuh	AL	Historical.
Conecuh River	Escambia	Covington, Crenshaw	AL	Historical.
Patsaliga Creek	Escambia	Covington, Crenshaw	AL	Historical.
Little Patsaliga Creek	Escambia	Crenshaw	AL	Historical.
Hollis Creek	Yellow	Covington	AL	Historical.
Choctawhatchee River	Choctawhatchee	Walton	FL	Historical.
Sandy Creek	Choctawhatchee	Walton	FL	Historical.
Holmes Creek	Choctawhatchee	Washington	FL	Current.
Choctawhatchee River	Choctawhatchee	Geneva, Dale	AL	Historical and Current.
Pea River	Choctawhatchee	Geneva, Coffee, Dale, Pike, Barbour.	AL	Historical and Current.
Flat Creek	Choctawhatchee	Geneva	AL	Historical.
Whitewater Creek	Choctawhatchee	Coffee	AL	Historical.
West Fork Choctawhatchee River	Choctawhatchee	Dale, Barbour	AL	Historical and Current.
East Fork Choctawhatchee River	Choctawhatchee	Dale, Henry	AL	Historical.

Since 1995, the southern kidneyshell has been detected at only 10 locations within the Choctawhatchee River drainage. The species appears to have been common historically (in 1964, H. D. Athearn collected 98 individuals at one site on the West Fork Choctawhatchee), but it is currently considered one of the most imperiled species in the United States (Blalock-Herod *et al.* 2005, p. 16; Williams *et al.* 2008, p. 625). In addition to a reduction in range, its numbers are very low. A 2006–2007 status survey in the Alabama portion of the Choctawhatchee basin found the southern kidneyshell was extremely rare. A total of 13 were encountered alive, and the species comprised less than 0.3 percent of the total mussel assemblage (Gangloff and Hartfield 2009, p. 249). It is classified as a species of highest conservation concern in Alabama by McGregor (2004, p. 83), and considered threatened throughout its range by Williams *et al.* (1993, p. 14)

Choctaw Bean

The Choctaw bean (*Villosa choctawensis,* Athearn 1964) is a small freshwater mussel known from the Escambia, Yellow, and Choctawhatchee River drainages of Alabama and Florida. The oval shell of the Choctaw bean reaches about 49 mm (2.0 in.) in length, and is shiny and greenish-brown in color, typically with thin green rays, though the rays are often obscured in darker individuals. The shell interior color varies from bluish white to smoky brown with some iridescence (Williams and Butler 1994, p. 100; Williams *et al.* 2008, p. 758). The sexes are dimorphic, with females truncate or widely rounded posteriorly, and sometimes slightly more inflated (Athearn 1964, p. 137). The Choctaw bean was originally described by H.D. Athearn in 1964.

Very little is known about the habitat requirements or life history of the Choctaw bean. It is found in medium creeks to medium rivers in stable substrates of silty sand to sandy clay with moderate current. It is believed to be a long-term brooder, with females gravid from late summer or autumn to the following summer. Its fish host is currently unknown (Williams *et al.* 2008, p. 758).

The Choctaw bean is known from the Escambia, Yellow, and Choctawhatchee River drainages in Alabama and Florida (Williams *et al.* 2008, p. 758). The Choctaw bean's known historical and current occurrences, by water body and county, are shown in Table 5 below.

TABLE 5—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE CHOCTAW BEAN

Water body	Drainage	County	State	Historical or current
Escambia River	Escambia	Escambia, Santa Rosa	FL	Historical and Current.
Burnt Corn	Escambia	Conecuh	AL	Current.
Murder Creek	Escambia	Conecuh	AL	Historical.
Pigeon Creek	Escambia	Butler	AL	Historical.
Patsaliga Creek	Escambia	Crenshaw	AL	Historical and Current.
Little Patsaliga Creek	Escambia	Crenshaw	AL	Historical.
Olustee Creek	Escambia	Pike	AL	Current.
Conecuh River	Escambia	Crenshaw, Pike	AL	Current.
Yellow River	Yellow	Okaloosa	FL	Historical and Current.
Five Runs Creek	Yellow	Covington	AL	Historical and Current.

TABLE 5—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE CHOCTAW BEAN—Continued

Water body	Drainage	County	State	Historical or current
Yellow River	Yellow	Covington	AL	Historical and Current.
Choctawhatchee River	Choctawhatchee	Walton, Washington, Holmes	FL	Historical and Current.
Holmes Creek	Choctawhatchee	Washington	FL	Current.
Bruce Creek	Choctawhatchee	Walton	FL	Current.
Wrights Creek	Choctawhatchee	Holmes	FL	Current.
Choctawhatchee River	Choctawhatchee	Geneva, Dale	AL	Historical and Current.
Pea River	Choctawhatchee	Geneva, Coffee, Pike, Barbour	AL	Historical and Current.
Limestone Creek	Choctawhatchee	Walton	FL	Current.
Flat Creek	Choctawhatchee	Geneva	AL	Current.
Whitewater Creek	Choctawhatchee	Coffee	AL	Current.
Pea Creek	Choctawhatchee	Barbour	AL	Current.
Big Sandy Creek	Choctawhatchee	Bullock	AL	Current.
Claybank Creek	Choctawhatchee	Dale	AL	Current.
West Fork Choctawhatchee River	Choctawhatchee	Dale, Barbour	AL	Historical and Current.
Judy Creek	Choctawhatchee	Dale	AL	Current.
Pauls Creek	Choctawhatchee	Barbour	AL	Current.
East Fork Choctawhatchee River	Choctawhatchee	Henry, Barbour	AL	Historical and Current.

The Choctaw bean persists in most of its historic range. However, it has experienced localized extirpations and its numbers are low, particularly in the Escambia and Yellow river drainages. Of 7 historical sites known to support the species within the Escambia River drainage, 1 location currently supports the species. Also, its numbers within the drainage are very low; a total of 14 individuals have been collected since 1995. Within the Yellow River drainage, the Choctaw bean is currently known from 4 locations which yielded 15 individuals total. In the Choctawhatchee River drainage, 3 of 10 historical sites examined recently continue to support the species. The Choctaw bean continues to persist in most areas and is currently known from a total of 37 locations throughout the drainage.

Heard (1975, p. 17) assessed the status of the Choctaw bean in 1975 and stated that it was formerly abundant in the main channel of the Choctawhatchee River in Florida, but has become quite rare. McGregor (2004, p. 103) considered the Choctaw bean vulnerable to extinction due to its limited distribution and habitat degradation, and classified it as a species of high conservation concern in Alabama. Williams *et al.* (1993, p. 14) considered the Choctaw bean as threatened throughout its range.

Tapered Pigtoe

The tapered pigtoe (*Fusconaia burkei,* Walker 1922) is a small to medium-sized mussel endemic to the Choctawhatchee River drainage in Alabama and Florida (Williams *et al.* 2008, p. 296). The elliptical to subtriangular shell of the tapered pigtoe reaches about 75 mm (3.0 in.) in length, and is sculptured with plications (parallel ridges) that radiate from the posterior ridge. In younger individuals, the shell exterior is greenish brown to yellowish brown in color, occasionally with faint dark-green rays, and with pronounced sculpture often covering the entire shell; in older individuals, the shell becomes dark brown to black with age, and sculpture is often subtle. The shell interior is bluish white (Williams *et al.* 2008, p. 295). The tapered pigtoe was described by B. Walker (in Ortmann and Walker 1922) as *Quincuncina burkei,* a new genus and species. In the description, Ortmann noted the species had gill features characteristic of the genus *Fusconaia;* however, this was dismissed based on the presence of sculpture on the shell. Genetic analysis by Lydeard *et al.* (2000, p. 149) determined it to be a sister taxon to *Fusconaia escambia.* Based on soft anatomy similarity, Williams *et al.* (2008, p. 296) recognized *burkei* as belonging to the genus *Fusconaia.* Recent molecular studies by Campbell and Lydeard (2012, p. 28) support the distinctiveness of *burkei* as a species and its assignment to the genus *Fusconaia.*

The tapered pigtoe is found in medium creeks to medium rivers in stable substrates of sand, small gravel, or sandy mud, with slow to moderate current (Williams *et al.* 2008, p. 296). The reproductive biology of the tapered pigtoe was studied by White *et al.* (2008). It is a short-term brooder, with females gravid from mid-March to May. The blacktail shiner (*Cyprinella venusta*) was found to serve as a host for tapered pigtoe glochidia in the preliminary host trial (White *et al.* 2008, p. 122–123).

The tapered pigtoe is endemic to the Choctawhatchee River drainage in Alabama and Florida (Williams *et al.* 2008, p. 296). Its historical and current distribution includes several oxbow lakes in Florida, some with a flowing connection to the main channel. The tapered pigtoe's known historical and current occurrences, by water body and county, are shown in Table 6 below.

TABLE 6—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE TAPERED PIGTOE

Water body	Drainage	County	State	Historical or current
Pine Log Creek	Choctawhatchee	Washington, Bay	FL	Current.
Choctawhatchee River	Choctawhatchee	Walton, Washington, Holmes	FL	Historical and Current.
Crews Lake	Choctawhatchee	Washington	FL	Current.
Crawford Lake	Choctawhatchee	Washington	FL	Historical.
Horseshoe Lake	Choctawhatchee	Washington	FL	Historical.
Holmes Creek	Choctawhatchee	Washington, Holmes, Jackson	FL	Historical and Current.
Bruce Creek	Choctawhatchee	Walton	FL	Current.
Sandy Creek	Choctawhatchee	Walton	FL	Current.
Blue Creek	Choctawhatchee	Holmes	FL	Current.

TABLE 6—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE TAPERED PIGTOE—Continued

Water body	Drainage	County	State	Historical or current
Wrights Creek	Choctawhatchee	Holmes	FL	Current.
Tenmile Creek	Choctawhatchee	Holmes	FL	Historical.
West Pittman Creek	Choctawhatchee	Holmes	FL	Current.
East Pittman Creek	Choctawhatchee	Holmes	FL	Historical and Current.
Parrot Creek	Choctawhatchee	Holmes	FL	Current.
Limestone Creek	Choctawhatchee	Walton	FL	Historical and Current.
Eightmile Creek	Choctawhatchee	Walton	FL	Current.
Flat Creek	Choctawhatchee	Geneva	AL	Historical and Current.
Pea River	Choctawhatchee	Coffee, Dale, Pike, Barbour	AL	Historical and Current.
Big Creek (Whitewater Creek tributary).	Choctawhatchee	Pike	AL	Current.
Big Creek (Pea River tributary)	Choctawhatchee	Barbour	AL	Current.
Pea Creek	Choctawhatchee	Barbour	AL	Current.
Hurricane Creek	Choctawhatchee	Geneva	AL	Historical.
Choctawhatchee River	Choctawhatchee	Dale	AL	Historical.
Little Choctawhatchee River	Choctawhatchee	Dale, Houston	AL	Historical.
Panther Creek	Choctawhatchee	Houston	AL	Historical.
Bear Creek	Choctawhatchee	Houston	AL	Historical.
West Fork Choctawhatchee River	Choctawhatchee	Dale, Barbour	AL	Historical and Current.
Judy Creek	Choctawhatchee	Dale	AL	Current.
Pauls Creek	Choctawhatchee	Barbour	AL	Current.

The tapered pigtoe appears to be absent from portions of its historic range and found only in isolated locations (Blalock-Herod *et al.* 2005, p. 17). The species was not detected at 9 of the 22 historical sites examined during recent status surveys. Most of those are in the middle portion of the drainage in Alabama, and the species appears to be declining in this portion of its range. The tapered pigtoe is currently known from a total of 53 locations within the Choctawhatchee River drainage. The species persists mainly in the lower portions of the drainage and in isolated locations in Alabama.

Due to its limited distribution, rarity, and habitat degradation, Blalock-Herod (2004, p. 105) considered the tapered pigtoe vulnerable to extinction, and classified it as a species of high conservation concern in Alabama. The tapered pigtoe is considered threatened throughout its range by Williams *et al.* (1993, p. 14).

Narrow Pigtoe

The narrow pigtoe (*Fusconaia escambia,* Clench and Turner 1956) is a small to medium-sized mussel known from the Escambia River drainage in Alabama and Florida, and the Yellow River drainage in Florida. The subtriangular to squarish shaped shell of the narrow pigtoe reaches about 75 mm (3.0 in.) in length. The shell is moderately thick and is usually reddish brown to black in color. The shell interior is white to salmon in color with iridescence near the posterior margin (Williams and Butler 1994, p. 77; Williams *et al.* 2008, p. 316). The narrow pigtoe was originally described by W. J. Clench and R. D. Turner in 1956. Both molecular (Campbell and Lydeard 2012, p. 28) and morphological (Williams *et al.* 2008, p. 316) evidence support the distinctiveness of *escambia* as a species and its assignment to the genus *Fusconaia.*

Little is known about the habitat requirements or life history of the narrow pigtoe. It is found in medium creeks to medium rivers, in stable substrates of sand, sand and gravel, or silty sand, with slow to moderate current. It is believed to be a short-term brooder, with females gravid during spring and summer. The host fish for the narrow pigtoe is currently unknown (Williams *et al.* 2008, p. 317). The species is somewhat unusual in that it tolerates a small reservoir environment (Williams 2009 pers. comm.). Reproducing narrow pigtoe populations were found recently in some areas of Point A Lake and Gantt Lake reservoirs.

The narrow pigtoe is endemic to the Escambia River drainage in Alabama and Florida, and to the Yellow River drainage in Florida (Williams *et al.* 2008, p. 317). The narrow pigtoe's known historical and current occurrences, by water body and county, are shown in Table 7 below.

TABLE 7—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE NARROW PIGTOE

Water body	Drainage	County	State	Historical or current
Escambia River	Escambia	Escambia, Santa Rosa	FL	Historical and Current.
Conecuh River	Escambia	Escambia, Covington, Crenshaw, Pike.	AL	Historical and Current.
Burnt Corn Creek	Escambia	Conecuh	AL	Current.
Murder Creek	Escambia	Conecuh	AL	Historical and Current.
Bottle Creek	Escambia	Conecuh	AL	Historical.
Panther Creek	Escambia	Butler	AL	Historical.
Persimmon Creek	Escambia	Butler	AL	Current.
Three Run Creek	Escambia	Butler	AL	Current.
Patsaliga Creek	Escambia	Covington, Crenshaw	AL	Current.
Yellow River	Yellow	Santa Rosa, Okaloosa	FL	Historical and Current.

The narrow pigtoe still occurs in much of its historic range, but may be extirpated from localized areas. In the Escambia River drainage, the narrow pigtoe occurs in nearly all of its historical range and is currently known from 28 locations. It was not detected at 3 out of 10 historical sites examined recently in the drainage. The species is rare in the Yellow River drainage; a total of 23 individuals from 4 locations have been collected since 1995.

McGregor (2004, p. 55) considered the narrow pigtoe vulnerable to extinction because of its limited distribution, rarity, and susceptibility to habitat degradation, and classified it as a species of highest conservation concern in Alabama. Williams *et al.* (1993, p. 11) considered the narrow pigtoe threatened throughout its range.

Southern Sandshell

The southern sandshell (*Hamiota australis,* Simpson 1900) is a medium-sized freshwater mussel known from the Escambia River drainage in Alabama, and the Yellow and Choctawhatchee River drainages in Alabama and Florida (Williams *et al.* 2008, p. 338). The southern sandshell is elliptical in shape and reaches about 83 mm (2.3 in.) in length. Its shell is smooth and shiny, and greenish in color in young specimens, becoming dark greenish brown to black with age, with many variable green rays. The shell interior is bluish white and iridescent. Sexual dimorphism is present as a slight inflation of the posterioventral shell margin of females (Williams and Butler 1994, p. 97; Williams *et al.* 2008, p. 337). The southern sandshell (*Hamiota australis*) was originally described by C. T. Simpson (1900) as *Lampsilis australis.* Heard (1975), however, designated it as a species of *Villosa.* It was placed in the genus *Hamiota* by Roe and Hartfield (2005, pp. 1–3), who confirmed earlier published suggestions by Fuller and Bereza (1973, p. 53) and O'Brien and Brim Box (1999, pp. 135–136) that this species and three others of the genus *Lampsilis* represent a distinct genus. This separation from other *Lampsilis* is supported genetically (Roe *et al.* 2001, p. 2230).

The southern sandshell is typically found in small creeks and rivers in stable substrates of sand or mixtures of sand and fine gravel, with slow to moderate current. It is a long-term brooder, and females are gravid from late summer or autumn to the following spring (Williams *et al.* 2008, p. 338). The southern sandshell is one of only four species that produce a superconglutinate to attract a host. The superconglutinate mimics the shape, coloration, and movement of a fish and is produced by the female mussel to hold all glochidia (larval mussels) from one year's reproductive effort (Haag *et al.* 1995, p. 472). Although the fish host for the southern sandshell has not been identified, it likely uses predatory sunfishes such as basses, like other *Hamiota* species (Haag *et al.* 1995, p. 475; O'Brien and Brim Box 1999, p. 134; Blalock-Herod *et al.* 2002, p. 1885).

The southern sandshell is endemic to the Escambia River drainage in Alabama, and the Yellow and Choctawhatchee River drainages in Alabama and Florida (Blalock-Herod *et al.* 2002, pp. 1882, 1884). The southern sandshell's known historical and current occurrences, by water body and county, are shown in Table 8 below.

TABLE 8—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE SOUTHERN SANDSHELL

Water body	Drainage	County	State	Historical or current
Burnt corn creek	Escambia	Escambia, Conecuh	AL	Historical and Current.
Murder Creek	Escambia	Conecuh	AL	Current.
Jordan Creek	Escambia	Conecuh	AL	Current.
Sepulga River	Escambia	Conecuh	AL	Historical.
Conecuh River	Escambia	Covington, Crenshaw, Pike	AL	Current and Historical.
Little Patsaliga Creek	Escambia	Crenshaw	AL	Historical.
Patsaliga Creek	Escambia	Crenshaw	AL	Current.
Yellow River	Yellow	Okaloosa	FL	Current.
Shoal River	Yellow	Okaloosa, Walton	FL	Current.
Pond Creek	Yellow	Okaloosa	FL	Historical and Current.
Yellow River	Yellow	Covington	AL	Historical and Current.
Five Runs Creek	Yellow	Covington	AL	Historical and Current.
Alligator Creek	Choctawhatchee	Washington	FL	Historical.
Holmes Creek	Choctawhatchee	Holmes, Jackson	FL	Historical.
Bruce Creek	Choctawhatchee	Walton	FL	Current.
West Sandy Creek	Choctawhatchee	Walton	FL	Current.
Choctawhatchee River	Choctawhatchee	Holmes	FL	Historical and Current.
Tenmile Creek	Choctawhatchee	Holmes	FL	Historical.
Wrights Creek	Choctawhatchee	Holmes	FL	Current.
Limestone Creek	Choctawhatchee	Walton	FL	Historical.
Choctawhatchee River	Choctawhatchee	Geneva, Dale	AL	Historical and Current.
Pea River	Choctawhatchee	Geneva, Coffee, Dale, Pike, Barbour.	AL	Historical and Current.
Flat Creek	Choctawhatchee	Geneva	AL	Current.
Eightmile Creek	Choctawhatchee	Geneva, Walton	AL, FL	Current.
Natural Bridge Creek	Choctawhatchee	Geneva	AL	Current.
Corner Creek	Choctawhatchee	Geneva	AL	Current.
Whitewater Creek	Choctawhatchee	Coffee	AL	Historical.
Pea Creek	Choctawhatchee	Barbour	AL	Historical and Current.
Double Bridges Creek	Choctawhatchee	Coffee	AL	Current.
Little Choctawhatchee River	Choctawhatchee	Dale, Houston	AL	Historical.
West Fork Choctawhatchee River	Choctawhatchee	Barbour, Dale	AL	Historical and Current.
Sikes Creek	Choctawhatchee	Barbour	AL	Current.
Pauls Creek	Choctawhatchee	Barbour	AL	Current.
East Fork Choctawhatchee River	Choctawhatchee	Dale, Henry	AL	Historical and Current.

The southern sandshell persists in its historic range; however, its range is fragmented and numbers appear to be declining (Williams *et al.* 2008, p. 338). In the Escambia River drainage, the species was detected at 1 of 4 historic locations surveyed recently. Also, its numbers are very low in the drainage; a total of 20 individuals from 6 locations have been collected in the Escambia River drainage since 1995. Southern sandshell numbers in the Yellow River drainage are also fairly low, with 65 individuals collected recently at a total of 17 locations. The species was not detected at 2 of the 4 historic locations examined recently in the drainage. In the Choctawhatchee River drainage, the number of historic locations that currently support the species has declined from 16 to 5, and it appears to be extirpated from central portions of the Choctawhatchee River main channel and from some tributaries. Sedimentation could be one factor contributing to its decline. In order to reproduce, the southern sandshell must attract a sight-feeding fish to its superconglutinate lure. Waters clouded by silt and sediment would reduce the chance of this interaction occurring (Haag *et al.* 1995, p. 475).

The southern sandshell is classified as a species of highest conservation concern in Alabama by Blalock-Herod (2004, p. 60), and considered threatened throughout its range by Williams *et al.* (1993, p. 11).

Fuzzy Pigtoe.

The fuzzy pigtoe (*Pleurobema strodeanum,* Wright (1898) is a small to medium-sized mussel known from the Escambia, Yellow, and Choctawhatchee River drainages in Alabama and Florida (Williams *et al.* 2008, p. 574). The fuzzy pigtoe is oval to subtriangular and reaches about 75 mm (3.0 in.) in length. Its shell surface is usually dark brown to black in color. The shell interior is bluish white, with slight iridescence near the margin (Williams and Butler 1994, p. 90; Williams *et al.* 2008, p. 573). The fuzzy pigtoe was described by B.H. Wright (1898) as *Unio strodeanus.* Simpson (1900) reexamined the type specimen and reassigned it to the genus *Pleurobema.* Recent molecular data support that *strodeanum* is distinct as a species and belongs to the genus *Pleurobema* (Campbell and Lydeard 2012, p. 29).

The fuzzy pigtoe is found in medium creeks to medium rivers in stable substrates of sand and silty sand with slow to moderate current. The reproductive biology of the fuzzy pigtoe was studied by White *et al.* (2008, pp. 122–123). It is a short-term brooder, with females gravid from mid-March to May. The blacktail shiner (*Cyprinella venusta*) was found to serve as a host for fuzzy pigtoe glochidia in the preliminary study trial.

The fuzzy pigtoe is endemic to the Escambia, Yellow, and Choctawhatchee River drainages in Alabama and Florida (Williams *et al.* 2008, p. 574). The fuzzy pigtoe's known historical and current occurrences, by water body and county, are shown in Table 9 below.

TABLE 9—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE FUZZY PIGTOE

Water body	Drainage	County	State	Historical or current
Escambia River	Escambia	Escambia, Santa Rosa	FL	Historical and Current.
Conecuh River	Escambia	Escambia, Covington, Crenshaw, Pike.	AL	Historical and Current.
Burnt Corn Creek	Escambia	Conecuh	AL	Historical and Current.
Murder Creek	Escambia	Conecuh	AL	Historical and Current.
Jordan Creek	Escambia	Conecuh	AL	Historical and Current.
Sandy Creek	Escambia	Conecuh	AL	Historical.
Bottle Creek	Escambia	Conecuh	AL	Historical and Current.
Sepulga River	Escambia	Conecuh	AL	Historical.
Persimmon Creek	Escambia	Butler	AL	Current.
Pigeon Creek	Escambia	Covington, Butler	AL	Historical and Current.
Patsaliga Creek	Escambia	Crenshaw	AL	Historical and Current.
Little Patsaliga Creek	Escambia	Crenshaw	AL	Historical and Current.
Mill Creek	Escambia	Pike	AL	Historical.
Yellow River	Yellow	Okaloosa	FL	Historical and Current.
Yellow River	Yellow	Covington	AL	Historical.
Choctawhatchee River	Choctawhatchee	Walton, Washington, Holmes	FL	Historical and Current
Holmes Creek	Choctawhatchee	Washington, Holmes, Jackson	FL	Historical and Current.
Bruce Creek	Choctawhatchee	Walton	FL	Current.
Sandy Creek	Choctawhatchee	Walton	FL	Current.
Blue Creek	Choctawhatchee	Holmes	FL	Current.
Wrights Creek	Choctawhatchee	Holmes	FL	Historical and Current.
Tenmile Creek	Choctawhatchee	Holmes	FL	Current.
West Pittman Creek	Choctawhatchee	Holmes	FL	Current.
East Pittman Creek	Choctawhatchee	Holmes	FL	Current.
Limestone Creek	Choctawhatchee	Walton	FL	Historical.
Eightmile Creek	Choctawhatchee	Walton	FL	Current.
Choctawhatchee River	Choctawhatchee	Geneva, Dale	AL	Historical and Current.
Pea River	Choctawhatchee	Geneva, Coffee, Dale, Pike, Barbour.	AL	Historical and Current.
Flat Creek	Choctawhatchee	Geneva	AL	Current.
Whitewater Creek	Choctawhatchee	Coffee	AL	Current.
Walnut Creek	Choctawhatchee	Pike	AL	Current.
Pea Creek	Choctawhatchee	Barbour	AL	Current.
Big Sandy Creek	Choctawhatchee	Bullock	AL	Current.
Steep Head Creek	Choctawhatchee	Coffee	AL	Current.
Claybank Creek	Choctawhatchee	Dale	AL	Current.
Hurricane Creek	Choctawhatchee	Geneva	AL	Current.
Little Choctawhatchee River	Choctawhatchee	Dale, Houston	AL	Historical.
Panther Creek	Choctawhatchee	Houston	AL	Historical.
West Fork Choctawhatchee River	Choctawhatchee	Dale, Barbour	AL	Historical and Current.

TABLE 9—WATER BODIES WITH KNOWN HISTORICAL AND CURRENT OCCURRENCES OF THE FUZZY PIGTOE—Continued

Water body	Drainage	County	State	Historical or current
Judy Creek	Choctawhatchee	Dale	AL	Current.
Pauls Creek	Choctawhatchee	Barbour	AL	Current.
Unnamed tributary to Lindsey Creek.	Choctawhatchee	Barbour	AL	Current.
East Fork Choctawhatchee River	Choctawhatchee	Dale	AL	Current.
East Fork Choctawhatchee River	Choctawhatchee	Henry	AL	Historical and Current.

Within the Escambia River drainage, the fuzzy pigtoe was detected at 15 of the 21 historic locations surveyed since 1995; however, its status in the drainage is difficult to assess as 9 historical sites have not been surveyed since 1995, and at least 3 other sites have vague localities. The fuzzy pigtoe is exceedingly rare in the Yellow River drainage, where it is currently known from 1 of 4 historic locations. A single individual collected in 2010 in the main channel in Florida is the only recent record of the species in the drainage. Its range in the Yellow River drainage has declined, and the species may no longer occur in the upper portion of the drainage in Alabama. In the Choctawhatchee River drainage, the fuzzy pigtoe stills occurs in nearly all of its historic range and is currently known from a total of 50 locations; however, the species has become extirpated in localized areas. Fifteen of the 18 historic locations in the drainage were surveyed recently, and 8 continue to support fuzzy pigtoe populations. At one site on Limestone Creek, a once abundant population may have disappeared—a total of 42 live fuzzy pigtoes were collected in 1988; the surveyor revisited the site in 1993, and found only 1 live and 4 dead specimens and noted that the creek appeared to have more sand and that mussels were not as abundant (Butler 1988 and 1993 *in litt.*). No fuzzy pigtoes were detected during a 2011 site visit (Gangloff 2012 pers. com.).

The fuzzy pigtoe is considered vulnerable to extinction because of its limited distribution and dwindling habitat by McGregor (2004, p. 101), who classified it as a species of high conservation concern in Alabama. Williams *et al.* (1993, p. 11) considered the fuzzy pigtoe a species of special concern throughout its range.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed listing and designation of critical habitat for the eight mussels during two comment periods. The first comment period associated with the publication of the proposed rule (76 FR 61482) opened on October 4, 2011, and closed on December 5, 2011. We also requested comments on the proposed listing and critical habitat rule and the associated draft economic analysis during a comment period that opened March 27, 2012, and closed on April 26, 2012 (77 FR 18173). We did not receive any requests for a public hearing, so none were held. We also contacted all appropriate State and Federal agencies (including the States of Alabama and Florida, from whom we directly requested comments), county governments, elected officials, scientific organizations, and other interested parties and invited them to comment. Articles concerning the proposed rule and inviting public comment were published by seven local newspapers.

During the first comment periods, we received five comment letters directly addressing the proposed listing and critical habitat designation. During the second comment period, we received four comment letters addressing the proposed listing and critical habitat designation and the draft economic analysis. All substantive information provided during both comment periods has either been incorporated directly into this final determination or is addressed below.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we requested the expert opinions of four knowledgeable individuals with expertise on freshwater mussel conservation and biology, and with familiarity of the eight species and the three river basins in which they occur. We received written responses from two of the four peer reviewers we contacted.

We reviewed all comments received from the two peer reviewers for substantive and new information regarding the proposal to list and designate critical habitat for the eight mussels. The peer reviewers generally concurred with our conclusions and provided additional information, clarifications, and suggestions to improve the final listing and critical habitat rule. One peer reviewer provided several narrative comments, and we addressed most of those below; however, a few minor comments are directly incorporated into this final rule. Another peer reviewer submitted a marked-up copy of the proposed rule, noting errors and suggestions; we adopted most of the suggested changes and incorporated them directly into this final rule. Peer reviewer comments are addressed in the following summary and incorporated into this final rule as appropriate.

Peer Reviewer Comments

(1) *Comment:* Much of the recent status data utilized were obtained from personal communications, unpublished (i.e., non-peer-reviewed) reports or other generally unavailable reports. Accordingly, it is difficult to assess the rigor of these studies or the Service's interpretation of their data. More information, including sampling effort and methods, mussel catch per unit effort, numbers encountered relative to other species, and specifics of study site locations, is needed to better assess changes in population status or distributions.

Our response: We obtained much of the status data, particularly the recent survey data, from unpublished reports, field notes, or emails. This information is the best scientific data available to us at this time. Although the unpublished reports are not available through journals, they are part of the administrative record and can be obtained through the Panama City Field Office (see **ADDRESSES** section). We agree that information on sampling methods and effort, relative numbers, locations, etc., is important; however, the occurrence data are a compilation of numerous surveys, and it is not practical to report detailed information related to each survey effort. Documenting changes in status and population trends over the period of record is problematic because historic collections often lack basic information such as the specific locality, total number of species or individuals collected, or even collection date. The only accurate comparison that can be made of so many different sources of

historical and recent collection data is whether a particular species was detected (present) or not (absent) during the survey.

(2) *Comment:* The assignment of endangered or threatened species status appears to be somewhat arbitrary. Three species are clearly in serious decline and warrant endangered status: Alabama pearlshell, round ebonyshell, and southern kidneyshell. However, the southern sandshell and Choctaw bean appear to have among the largest extant ranges of any species covered in the proposed rule and remain extant in the Choctawhatchee, Escambia, and Yellow rivers drainages. This distinction needs more quantitative or more detailed biological justification.

Our response: In assessing the status of these mussels, we analyzed each species' current distribution (range), abundance (numbers), and population trend. We also examined the magnitude of the various threats to each of the species. Section 3(6) of the Act defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range,'' and section 3(20) of the Act defines a threatened species as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' At the time the proposed rule published, we had determined that the current status of the southern sandshell and Choctaw bean, combined with the threats they are facing, made them in danger of extinction throughout their range. However, since the proposed rule was published, additional surveys have taken place, including a Service-funded status survey, and we now have new status and distribution information. In this final rule, we updated the occurrence information to reflect the new data, and we reexamined the status of each species. These new data include locations of populations of the southern sandshell in two new creek systems, Murder and West Sandy creeks, and in two historical creek systems, Burnt Corn and Pond creeks. The new data also showed that southern sandshell abundance is higher than previously known. Because the species is found in numerous streams, we have determined it is no longer in danger of extinction throughout its range. However, the species does still face the wide range of threats explained in the ''Summary of Factors Affecting the Species'' section and is vulnerable to meeting the definition of an endangered species if these threats continue. Therefore, we are revising the status of the southern sandshell and are listing it as a threatened species (see ''Determination'' section). On the other hand, new information confirms that the Choctaw bean's range in the Escambia River drainage has declined, and its abundance rangewide is currently low. It currently faces severe and imminent threats in its aquatic habitats, and these threats are compounded by its low abundance. Based on this new information, we therefore find that the Choctaw bean continues to be in danger of extinction throughout its limited range and are listing it as an endangered species as proposed (see ''Determination'' section).

(3) *Comment:* More clarification about the number of historical sites (as well as what constitutes a 'site') that have been resurveyed for all of these taxa is needed. The reviewer states that this information is critical to assessing declines, and is difficult to extract from the rule as currently written.

Our response: We added Table 1 to the final rule to consolidate information on occurrence and abundance. We also added a statement that we considered sampling areas in close proximity to the same site. Specifically, areas sampled that are within 2 river km (1.2 mi) (approximately) of each other are considered the same site, whereas sampled areas that are more than 2 km apart are considered different sites.

(4) *Comment:* The boundaries of the critical habitat units seem somewhat arbitrary. The reviewer asserted that separation of the basins into these units artificially inflates perceived fragmentation and discontinuities in the system. Many of these units are at the very least hydrologically and physiochemically connected, and also likely remain biologically connected to a degree. Specifically, the peer reviewer suggested that units GCM1, GCM2, GCM3, and GCM4 should be considered a single critical habitat unit, and GCM6 and GCM7 should likewise be merged into a single critical habitat unit. The peer reviewer asserted that this would emphasize connectivity of these systems and the importance of managing aquatic populations at a watershed scale. Another commenter agreed and requested that the Service follow the recommendation of the peer reviewer and consolidate the six units into two distinct units.

Our response: We carefully considered how to delineate the boundaries of the units. Our consideration focused primarily on connectivity and threats, and the spatial distribution of the physical and biological features essential to the conservation of each species. The four divisions in the Escambia drainage are the result of the two mainstem dams on the Conecuh River, creating units GCM1, GCM2, GCM3, and GCM4. In the Choctawhatchee drainage, GCM6 and GCM7 are the result of the Elba dam on the Pea River mainstem. Threats to units downstream of the dams (GCM1 and GCM6) can include altered water quality (temperatures, dissolved oxygen), fluctuations in flow regime, and bed scour. Threats unique to the unit encompassing the two reservoirs (GCM2) are related to the operation of the dams and include drawdowns. Threats to the units upstream of the dams (GCM 3, GCM 4 and GCM 7) include the absence of anadromous fish hosts. These dams are barriers to upstream fish passage, and potentially to mussel gene flow. For these reasons, we believe these mainstem dams are logical boundaries. Finally, the critical habitat units do not infer recovery units. We have not yet completed a recovery plan for these species, but our recovery strategy for the eight mussels will undoubtedly involve managing and protecting these river systems at the watershed level.

(5) *Comment:* A reviewer suggested we consider combining units AP2 and GCM1.

Our response: We believe combining units AP2 and GCM1 would be an inaccurate representation of the Alabama pearlshell's range and habitat. The Alabama pearlshell is a headwater species and, as such, seldom co-occurs with the other six species in the drainage.

(6) *Comment: Cumberlandia* is found throughout the Mississippi basin not just the Tennessee drainage.

Our response: The context of the *Cumberlandia* information was the distribution of the genus in Alabama. We revised the sentence to make this more clear.

(7) *Comment:* Dredging, channelization, and snag removal and resulting streambed destabilization should be listed as the foremost threats to round pearlshell (reviewer meant round ebonyshell). This taxon is relatively drought tolerant as its core populations appear to reside in deep water habitats.

Our response: We agree and have added these activities as threats to the round ebonyshell.

(8) *Comment:* Characterization of narrow pigtoe habitat is somewhat vague and seems to imply that this animal is a small to moderate-sized stream specialist. The reviewer stated that occupied habitats include reaches of the lower Escambia and Yellow rivers, and considers both fairly large rivers.

Our response: We made minor revisions to the description of narrow pigtoe habitat to clarify. However, we disagree that the lower Escambia and Yellow rivers are large rivers, and we follow the description by Williams *et al.* (2008 p. 317) which classifies them as medium-sized rivers. This species is known from medium-sized creeks such as Murder and Patsaliga creeks in Alabama and medium-sized rivers such as the lower Escambia and Yellow rivers in Florida. We would describe nearby river systems like the Mobile and Apalachicola as ''large.'' The species does not occur in these rivers.

(9) *Comment:* What is the status of the proposed Little Choctawhatchee River Reservoir?

Our response: The Little Choctawhatchee project is a proposed water supply reservoir project in Dale and Houston Counties, Alabama. The Choctawhatchee, Pea, and Yellow Rivers Watershed Management Authority has applied for a section 404 permit from the U.S. Army Corps of Engineers. The project is in need of funding, but it is anticipated that it will move forward (Industrial Economics 2012, p. 4–11).

(10) *Comment:* One reviewer stated that there may be some commercial harvest of Alabama pearlshell, and asked if the Service has encountered any evidence for this claim.

Our response: We have no evidence that Alabama pearlshell were or are being harvested commercially.

(11) *Comment:* A peer reviewer suggested we include additional information in the document regarding the Elba Dam and its impact on downstream hydrology. The peer reviewer stated that it is a run-of-river structure and is, to his knowledge, not managed for hydropower production. The peer reviewer would like to see more info about the height and permeability of this and other dam structures.

Our response: At the time the proposed rule was published, we mistakenly believed the Elba Dam was not in operation. However, the dam is currently operating, generating power during peak periods and storing some water. We have revised our discussion of the dam's operation, and added dam height and fish passage information for the structure. We likewise added dam height and fish passage information for the Gantt and Point A dams on the Conecuh River.

(12) *Comment:* A peer reviewer mentioned that they did not find any mussels during a recent survey in the Yellow River upstream from the U.S. 84 crossing or in Hollis Creek. At the time of their survey, Hollis Creek was a small, sandy, intermittent stream at its confluence with the Yellow River and was unlikely to support listed mussels.

Our response: The Yellow River at the U.S. 84 crossing has a recent (1996) collection of Choctaw bean, and this portion of the river will remain as critical habitat. The 5.5-km (3.5-mi) segment of Hollis Creek was included as critical habitat in unit GCM5 in the proposed rule, but we have removed this segment in this final rule based on this new information, and adjusted the final critical habitat lengths for Unit GCM5 and the entire designation accordingly.

(13) *Comment:* A peer reviewer asked why Fort Rucker lands were not included as critical habitat, and stated that this reach seems to be an important section that is likely to be disturbed by Department of Defense activities, which in turn could affect listed mussel populations downstream in the Choctawhatchee River.

Our response: Fort Rucker has completed an integrated natural resources management plan (INRMP) that guides conservation activities on the installation through 2014. Lands within military installations are exempt from critical habitat designation under section 4(a)(3) of the Act, provided they are: ''* * * subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' The INRMP specifically addresses maintaining and improving water quality through sedimentation and erosion control, land management practices, and improved treatment facilities. Therefore, in the proposed rule we determined that the streams on Ft. Rucker were exempt from the designation. In addition, the INRMP will be updated to incorporate the southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe. We will work with Fort Rucker's Environmental and Natural Resources Division to incorporate conservation actions specific to these species into the INRMP.

Comments From the States

Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.'' Comments received from the State of Florida regarding the proposal to list and designate critical habitat for the eight mussels are addressed below. No comments were received from the State of Alabama.

(14) *Comment:* The Florida Fish and Wildlife Commission generally concurred with our methods and conclusions, and supports the listing and the designation of critical habitat.

Our response: We appreciate the support and look forward to continuing to work with the Florida Fish and Wildlife Commission to recovery these mussels.

(15) *Comment:* One commenter asserted that the listing of the eight mussels and designation of critical habitat in the Florida Panhandle Region will increase costs and time spent on Florida Department of Transportation (FDOT) activities due to the need to conduct mussel surveys, the need to have formal section 7 consultation with the Service, the need to hire specialized consultants to conduct the survey and perform the formal consultation, and the mandated time requirements of a formal section 7 consultation. The comment states that, due to the significant number of bridges needing replacement and the limited funds available, these increased costs and prolonged timelines will have an economic burden and will constitute a safety concern for the public.

Our response: The economic analysis includes data provided by FDOT on the number of road and bridge construction and maintenance projects likely to occur over the next 20 years. The final economic analysis (FEA) estimates a total of 122 consultations over the next 20 years associated with road and bridge construction and maintenance activities within or affecting proposed critical habitat in Florida. The total present value incremental impact of consultations on these projects is $358,000 (an annualized impact of $31,600). As described in section 3.2 of the FEA, once the species are listed, the Service may recommend mussel surveys for proposed projects. However, these surveys would be recommended regardless of critical habitat due to the presence of listed species, and are therefore not quantified as a cost of the designation. In general, designation of critical habitat by itself does not generate the need for formal section 7 consultation. Consultation is triggered by activities that may affect the listed species or its critical habitat. Because each unit is already occupied by one or more of the mussel species, consultation would be required for activities with a Federal nexus that may affect the species regardless of the designation of critical habitat. Transportation planning, including planning for bridge replacement projects, typically has a

timeline, from planning to construction, of approximately 5 years. Informal and formal section 7 consultation can take place concurrent with other aspects of environmental planning without adding to the overall project timeline. There are also alternatives to individual project consultations, such as a programmatic formal consultation for bridge replacement projects, that could expedite the consultation process while reducing costs. The assessment of potential impacts of a project on critical habitat occurs at the same time as the assessment of the potential for the project to adversely affect a listed species. Consequently, critical habitat designation is not anticipated to generate additional delays in project schedules. Bridges that present an imminent public safety hazard may constitute an emergency, requiring emergency consultation. The Service has procedures for addressing emergency consultations that provide guidance to avoid and minimize effects to species and their habitat while allowing the emergency response to proceed. In non-emergency situations, when public safety is at risk, the consultation can often be expedited to address safety concerns.

(16) *Comment:* One comment states that Florida's Environmental Resource Permitting (ERP) Program provides the eight mussels with an additional level of environmental protection that is not offered in Alabama. The comment states that ERP ensures heightened water quality requirements and best management practices. The comment asserts that Florida should be excluded from the requirements of critical habitat designation due to the presence of applicable State statutes, including ERP, which applies to all activities on State, county, city, or Federal properties.

Our response: In response to information provided by the FDOT, section 3.1.2 of the FEA includes a description of the Florida ERP and the baseline protections it provides the eight mussels. The existence of this program does not preclude section 7 consultation requirements for projects with a Federal nexus. As such, the existence of this program does not change the estimated incremental impacts of critical habitat designation in Florida, which are limited to administrative costs of consultation. The heightened water quality protection measures of Florida's ERP provide benefits to freshwater mussels and support primary constituent element (PCE) 4, water quality. However, this measure alone cannot address all the potential threats to these species and their habitat from large-scale construction projects that can be addressed under section 7 of the Act. Threats may include direct injury and loss of individuals, as well as effects to other PCEs such as maintaining geomorphically stable stream and river channels (PCE 1), and stable substrates (PCE 2). Therefore, we are not excluding lands in the State of Florida.

Comments From Federal Agencies

(17) *Comment:* The U.S. Navy expressed its interest and commitment to work proactively with the Service to address potential issues should these species be listed under the Act. The Navy also provided information on properties within the watersheds of the proposed critical habitat units AP2 and GCM1, and these include Naval Air Station (NAS) Whiting Field's Navy Outlying Landing Field (NOLF) Evergreen (Alabama) and NOLF Pace (Florida).

Our response: After receiving these comments, the Service contacted the Navy and requested updated GIS files to better assess the locations of the NOLFs relative to proposed critical habitat. Once we had the detailed NOLF boundaries, we determined that the NOLF Pace does not have critical habitat within the boundary of the property, and that the NOLF Evergreen does have critical habitat within its boundary. NOLF Evergreen is situated within the Murder Creek drainage and includes an approximately 0.40-km (0.25-mi) segment of Hunter Creek, which is critical habitat in unit AP2 for the Alabama pearlshell. We also determined that the NAS Whiting Field Complex INRMP specifically addresses maintaining and improving water quality, and will be updated to incorporate the Alabama pearlshell. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3) of the Act as described in the ''Exemptions'' section, and this final rule has been changed accordingly.

This comment provides new information on the administrative effort required on the part of the NAS for maintenance of its INRMP. Review and updating of this INRMP occurs annually and would therefore occur regardless of critical habitat designation. However, incremental administrative effort may be required to consider the impact of activities covered under the INRMP on critical habitat. As discussed in section 4.1 of the DEA, the Service does not anticipate the critical habitat designation will generate recommendations for conservation efforts beyond those it would recommend due to the listing of the species. As a result, incremental economic impacts of critical habitat associated with consultation on the Navy's INRMP would be limited to additional administrative effort. The FEA is therefore revised to incorporate additional administrative costs to Units AP2 and GCM1 associated with the annual formal consultation on the NAS's INRMP.

Public Comments

(18) *Comment:* Comments received from several groups and individuals support the listing of the eight mussels and designation of critical habitat. These include: The Freshwater Mollusk Conservation Society, the Choctawhatchee River Keeper, the Center for Biological Diversity, American Rivers, and two anonymous commenters.

Our response: We appreciate the support.

(19) *Comment:* Multiple comments assert that the critical habitat designation will generate benefits. One comment suggests that critical habitat could be a stimulus for getting local, State, and Federal resources agencies to cooperate to address threats such as untreated active gully systems and to expand work to reduce pollutant transport from unpaved roads and associated roadside water conveyances. Another comment asserts that the mussels contribute economic value through denitrification of rivers, reducing the need to treat the water. A third comment similarly suggests that the Service should consider the economic benefits of the rule in terms of water quality improvements that will benefit downstream water users and public health.

Our response: Section 2.3.3 of the DEA describes that, ''[U]nder Executive Order 12866, OMB directs Federal agencies to provide an assessment of both the social costs and benefits of proposed regulatory actions * * * Rather than rely on economic measures, the Service believes that the direct benefits of the proposed rule are best expressed in biological terms that can be weighed against the expected cost impacts on the rulemaking.'' As described in section 4.4 of the DEA, the designation of critical habitat is not anticipated to generate additional conservation measures for the eight mussels beyond those that will be generated by their listing. Absent changes in land management or conservation measures for the eight mussels, we do not expect any incremental economic benefits, including improved water quality and associated benefits to human health and

reduced cost of downstream water treatment, to result specifically from designation of critical habitat for the eight mussels.

(20) *Comment:* One commenter provided a recent publication of a molecular study by Campbell and Lydeard (2012) titled *The genera of Pleurobemini (Bivalvia: Unionidae: Ambleminae).* The study confirms the taxonomy of *Fusconaia burkei, F. escambia,* and *Pleurobema strodeanum,* and it reassigns *Fusconaia rotulata* to the new genus *Reginaia.*

Our response: We incorporated these recent findings into this final determination, except the reassignment of *Fusconaia rotulata* to the new genus *Reginaia.* It is the Service's policy to recognize a nomenclature change once it has been vetted and generally accepted by the scientific community. However, because this finding was published in 2012, it has not had time to go through this process. If the change is accepted, we can revise the name in the future.

(21) *Comment:* One commenter agreed with the Service's inclusion of the Alabama pearlshell and southern kidneyshell on the Federal List of Endangered or Threatened Wildlife, but states that the proposed critical habitat should be extended to cover historically known ranges. The currently proposed critical habitat zones for the Alabama pearlshell, AP1 and AP2, do not contain any main stream channel that would prevent population isolation. The commenter recommended the Service include those sections of the Escambia River, Conecuh River, Cedar Creek, and the entirety of Murder Creek in order to connect Burnt Corn Creek, Murder Creek, and the Sepulga River and allow for a continuous stretch of critical habitat for the Alabama pearlshell. The commenter also stated that unit AP2 (commenter meant AP1) should be extended to contain sections of the Alabama River to allow the Alabama pearlshell to increase its range and numbers. Finally, the commenter recommended extending the southern kidneyshell's proposed critical habitat to include unit GCM5 in order to include known historical ranges and improve the species' chance of recovery.

Our response: As described under *Criteria Used to Identify Critical Habitat,* We reviewed available information pertaining to the habitat requirements of these species. In accordance with the Act and its implementing regulation at 50 CFR 424.12(e), we considered whether designating additional areas—outside those currently occupied as well as those occupied at the time of listing—are necessary to ensure the conservation of the species. We are designating critical habitat in areas within the geographical area occupied by the species at the time of listing in 2012. We also are designating specific areas outside the geographical area occupied by the species at the time of listing, that were historically occupied, but are presently unoccupied, because we have determined that such areas are essential for the conservation of these species. We have no data showing the Alabama pearlshell occurred in any of the rivers or creeks suggested for inclusion in the comment. For this reason, and based on the above criteria, we have no scientific information to support the extension of critical habitat in units AP1 and AP2 into the mainstem of these rivers at this time.

The southern kidneyshell's occurrence in the Yellow River is based on a single specimen collected in 1919, from Hollis Creek in Covington County, Alabama. The Hollis Creek segment was re-surveyed in 2012, and the surveyor noted the stream is small and intermittent, and is unlikely to support listed mussels (see comment 12); this may indicate habitat degradation or hydrology alteration or both since the collection. At this time, we do not believe that southern kidneyshell critical habitat should include the Yellow River drainage (including GCM5) because it is not essential to the conservation of the species and does not contain the physical or biological features needed to support the species.

(22) *Comment:* The proposed rule contains considerable speculation as to possible causes for reduced populations of the eight mussel species. The Service should rely instead on rigorous scientific information about relationships between factors potentially affecting these species, including the proposed water quality criteria associated with primary constituent elements, and actual population responses.

Our response: The Service has monitored the status of the eight mussels since they first became candidates for listing in 2004. Since that time, the Service and the States have funded numerous efforts to develop a better understanding of the natural history of these species. We have also analyzed the threats to these species using the best available science on surrogate species. The natural histories of these species are likely very similar to other species in the family Unionidae, and it is reasonable to assume that similar threats will affect these species in a similar manner. Each threat is discussed in detail in the Summary of Factors Affecting the Species and is summarized in the Determination sections. A threats matrix detailing our best understanding of the relative importance of these threats has been developed and is in the administrative record and available upon request (see **ADDRESSES** above).

(23) *Comment:* When properly implemented, forestry best management practices protect water quality and habitat for species associated with riparian, aquatic, and wetland habitats. Implementation and compliance rates for forestry best management practices are high nationally and in the Southeast, including in Alabama and Florida.

Our response: The Service agrees that best management practices (BMPs) are protective of water quality and mussel habitat, and that industrial forestry activities generally do a good job of implementing BMPs. However, BMPs are voluntary and, therefore, are not always implemented. In addition, some harvesting operations fail to use BMPs adequately, and localized impacts can and do occur. We consider sediment from silvicultural activities to be one of many potential sediment sources within a watershed.

(24) *Comment:* Sustainable forestry certification programs require participants to meet or exceed forestry best management practices and help ensure high rates of implementation.

Our response: The Service agrees that the sustainable forestry program is one of the most effective programs to ensure BMPs are properly implemented. Nonetheless, because they are voluntary, BMPs are not always implemented (see our response to Comment (23)) and some forestry activities can contribute sediments into stream systems.

(25) *Comment:* Suspended solids from modern biological wastewater treatment plants are often comprised largely of organic matter, and such solids would generally not be expected to contribute significantly to sedimentation or contaminated sediment.

Our response: The Service concurs with this comment. We have no information that suspended solids discharged by wastewater treatment plants, at permitted levels, are a threat to the eight mussels at this time.

(26) *Comment:* Sediment issues in the southeastern United States are complicated by a legacy of poor agricultural practices during the 1800s and early 1900s, which raises questions about sources of sediment problems and the relative magnitudes of different sediment sources today. Silvicultural activities generally have only a small, short-lived impact on water quality,

especially when compared with other land uses.

Our response: We agree that one of the primary sources of sedimentation in these basins is legacy sediment; however, we not aware of any studies that have looked at the relative contribution of historic and current sediment sources. We agree that silvicutural activities have a small and short-lived impact on water quality compared to other land uses; however, we do not believe the activities have small and short-lived impact to habitat quality. As discussed under Factor A under Summary of Factors Affecting the Species, heavy sediment loads can destroy mussel habitat, resulting in a corresponding shift in mussel fauna (Brim Box and Mossa 1999, p. 100), and can lead to rapid changes in stream channel position, channel shape, and bed elevation (Brim Box and Mossa 1999, p. 102).

(27) *Comment:* Herbicides used in forest management operation pose little risk to fauna, and there is no evidence that they endanger viability of aquatic organisms.

Our response: We do not agree that there is no evidence that herbicides used in forest management endanger viability of aquatic organisms. As described under Factors A and D under Summary of Factors Affecting the Species, numerous studies have documented that certain pesticides are lethal to mussels, particularly to the highly sensitive early life stages. A multitude of bioassay tests conducted on several mussel species show that freshwater mussels are more sensitive than previously known to the pesticides glyphosate and the surfactant MON 0818, ingredients in some pesticides used in forestry management.

(28) *Comment:* Climate change models do not provide information that is appropriate for making management decisions regarding these mussel species.

Our response: We agree that it would not be appropriate to use climate change models, which are broad in scale, to make management decisions regarding the eight mussels. However, we must consider evidence that climate change could lead to increased frequency of severe storms and droughts, which could affect these eight mussels in the future (see Factor E discussion, below).

Summary of Changes From Proposed Rule

After consideration of the comments we received during the public comment periods (see above), we made changes to the final listing rule. Many small, nonsubstantive changes and corrections, not affecting the determination (e.g., updating the Background section in response to comments, minor clarifications) were made throughout the document. Below is a summary list of more substantive changes made to this document.

(1) The total length of critical habitat was revised to 2,404 km (1,494 mi.) due to the removal of Hollis Creek, the exemption of a small section of Hunter Creek, and the accidental omission of one segment (Corner Creek) in a spreadsheet used to sum unit lengths for the proposed rule. Corner Creek was featured in the unit descriptions and maps of the proposed rule, but was inadvertently left out of the spreadsheet.

(2) The status of the southern sandshell was revised to a threatened species based on a peer reviewer's comment and new survey data.

(3) Unit AP2 was revised to remove a 0.4 km (0.25 mi) segment of Hunter Creek in Covington County, Alabama. This segment was determined to be exempt under section 4(a)(3) of the Act because it receives management under an approved INRMP created by the U.S. Navy (see comment 17 and our response).

(4) Table 1 was added to address peer review comment 3.

(5) The *Taxonomy, Life History, and Distribution* section was revised to reflect additional threats to round ebonyshell identified by a reviewer. These additional threats include dredging, channelization, and de-snagging of trees and brush for navigation.

(6) Information related to dam height and fish passage for Point A, Gantt, and Elba dams was added, and information related to the operation of Elba dam on the Pea River was revised.

In addition to these changes and additions, several errors in the proposed rule were corrected. These include:

(1) Renumbering of tables. The proposed rule contained two Tables 1 and 2; the second tables 1 and 2 were renumbered to Tables 10 and 11 in this document.

(2) Adding 1 km (1 mi) to the length of AP2. The length was recalculated and revised to 96 km (155 mi).

(3) Removing a portion of GCM5. Hollis Creek from its confluence with the Yellow River upstream 5.5 km (3.5 mi) to County Road 42, Covington County, Alabama, was erroneously included as critical habitat in the proposed rule, and we have removed it from this final rule; the length of unit GCM 5 was revised to 247 km (153 mi.).

(4) Adding 5 km (3.0 mi) to GCM6. This corrects an accidental omission of the Corner Creek segment length from the total length of critical habitat in the proposed rule. This happened due to its omission from a spreadsheet used to calculate the total length of units. The Corner Creek segment was, however, included in the critical habitat description in the proposed rule. The corrected length of the unit is 897 mi (557 km).

(5) Correcting other small errors in Table 10. Specifically, for southern sandshell,in unit GCM1, we revisedthe total length to 2,222 km (1,379 mi); for southern kidneyshell, we changed unit GCM5 to GCM6 and revised its total length to 1,975 km (1,226 mi); and for fuzzy pigtoe, we changed unit GCM2 to GCM1 and revised its total length to 2,222 km (1,379 mi).

(6) Changing the term ''protected'' to ''managed'' in Table 11 to more accurately define the various types of public lands.

(7) Where appropriate, updating occurrence information to incorporate data from a status survey completed in March of 2012.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be listed as an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Each of these factors is discussed below.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The habitats of freshwater mussels are vulnerable to habitat modification and water quality degradation from a number of activities associated with modern civilization. The primary cause of the decline of these eight mussels has been the modification and destruction of their stream and river habitat, with sedimentation as the leading cause. Their stream habitats are subject to pollution and alteration from a variety of sources including adjacent land use

activities, in-water activities, effluent discharges, and impoundments.

Nonpoint-source pollution from land surface runoff originates from virtually all land use activities and includes sediments, fertilizer, herbicide and pesticide residues; animal wastes; septic tank leakage and gray water discharge; and oils and greases. Current activities and land uses that can negatively affect populations of these eight mussels include unpaved road crossings, improper silviculture and agriculture practices, highway construction, housing developments, pipeline crossings, and cattle grazing. These activities can result in physical disturbance of stream substrates or the riparian zone, excess sedimentation and nutrification, decreased dissolved oxygen concentration, increased acidity and conductivity, and altered flow. Limited range and low numbers make these eight mussels vulnerable to land use changes that would result in increases in nonpoint-source pollution.

Sedimentation is one of the most significant pollution problems for aquatic organisms (Williams and Butler 1994, p. 55), and has been determined to be a major factor in mussel declines (Ellis 1936, pp. 39–40). Impacts resulting from sediments have been noted for many components of aquatic communities. For example, sediments have been shown to abrade or suffocate periphyton (organisms attached to underwater surfaces); affect respiration, growth, reproductive success, and behavior of aquatic insects and mussels; and affect fish growth, survival, and reproduction (Waters 1995, pp. 173–175). Heavy sediment loads can destroy mussel habitat, resulting in a corresponding shift in mussel fauna (Brim Box and Mossa 1999, p. 100). Excessive sedimentation can lead to rapid changes in stream channel position, channel shape, and bed elevation (Brim Box and Mossa 1999, p. 102). Sedimentation has also been shown to impair the filter feeding ability of mussels. When in high silt environments, mussels may keep their valves closed more often, resulting in reduced feeding activity (Ellis 1936, p. 30), and high amounts of suspended sediments can dilute their food source (Dennis 1984, p. 212). Increased turbidity from suspended sediment can reduce or eliminate juvenile mussel recruitment (Negus 1966, p. 525; Brim Box and Mossa 1999, pp. 101–102). Many mussel species use visual cues to attract host fishes; such a reproductive strategy depends on clear water. For example, increased turbidity may impact the southern sandshell life cycle by reducing the chance that a sight-feeding host fish will encounter the visual display of its superconglutinate lure (Haag *et al.* 1995, p. 475; Blalock-Herod *et al.* 2002, p. 1885). If the superconglutinate is not encountered by a host within a short time period, the glochidia will become nonviable (O'Brien and Brim Box 1999, p. 133). Also, evidence suggests that conglutinates of the southern kidneyshell, once released from the female mussel, must adhere to hard surfaces in order to be seen by its fish host. If the surface becomes covered in fine sediments, the conglutinate cannot attach and is swept away (Hartfield and Hartfield 1996, p. 373).

Biologists conducting mussel surveys within the drainages have reported observations of excessive sedimentation in the streams and rivers of the three basins. While searching for the Alabama pearlshell in headwater streams of the Escambia and Alabama drainages, D. N. Shelton (1996, pp. 1–5 unpub. report) reported many streams within the study area had experienced heavy siltation, and that all species of mollusks appeared to be adversely affected. M. M. Gangloff (Gangloff and Hartfield 2009, p. 253) observed large amounts of sand and silt in the mainstem Pea and Choctawhatchee rivers during a 2006–2007 survey, and considered this a possible reason for the decline of mussels in the drainage.

In 2009–2010, The Nature Conservancy completed an inventory and prioritization of impaired sites in the Yellow River watershed in Alabama and Florida (Herrington *et al.,* 2010 unpub. report). The study identified and quantified the impacts of unpaved road crossings and streambank instability and erosion within the river corridor and riparian zone, to assess impairments that could impact the five species occurring in the drainage. A total of 339 unpaved roads and approximately 209 river miles of mainstem and tributaries were assessed using standardized methods. Out of these, 409 sites ranked ''High'' or ''Moderate'' in risk of excessive sedimentation according to the Sediment Risk Index. Many of the impaired sites (149) were located upstream of known mussel locations. In addition, habitat conditions were characterized at 44 known mussel locations; the sites were scored numerically and rated as poor, fair, good, or excellent. The majority of the mussel sites were assessed to be either fair or poor. Most of these locations were within the vicinity of bridge crossings and boat ramps and several, particularly in the Shoal River in Florida, were directly downstream of highly impaired unpaved road and river corridor sites. In summary, the study found the threat of sedimentation and habitat degradation is high throughout the Yellow River watershed with over 75 percent of sites assessed exhibiting high or moderate risk, and the majority of known mussel locations impaired.

Potential sediment sources within a watershed include virtually any activity that disturbs the land surface. Current sources of sand, silt, and other sediment accumulation in south-central Alabama and western Florida stream channels include unpaved road runoff, agricultural lands, timber harvest, livestock grazing, and construction and other development activities (Williams and Butler 1994, p. 55; Bennett 2002, p. 5 and references therein; Hoehn 1998, pp. 46–47 and references therein). The Choctawhatchee, Pea, and Yellow Rivers Watershed Management Plan (CPYRWMP) and the Conecuh–Sepulga–Blackwater Rivers Watershed Protection Plan (CSBRWPP) document water quality impairments to the Alabama portion of the watersheds. Both plans identify elevated levels of sediment as one of the primary causes of impairment (CPYRWMP, p. 156; CSBRWPP, p. 110). In the Choctawhatchee and Yellow river drainages, four out of the nine streams in which sediment loads were calculated by the Geological Survey of Alabama had significant sediment impairment (CPYRWMP, p. 157). In Alabama, runoff from unpaved roads and roadside gullies is considered the main source of sediment transported into the streams of the drainages (Bennett 2002, p. 5 and references therein; CPYRWMP, p. 145). Unpaved roads are constructed primarily of sandy materials and are easily eroded and transported to stream corridors. In addition, certain silvicultural and agricultural activities cause erosion, riparian buffer degradation, and increased sedimentation. Uncontrolled access to streams by cattle can result in destruction of riparian vegetation, bank degradation and erosion, and localized sedimentation of stream habitats.

Land surface runoff also contributes nutrients (for example, nitrogen and phosphorus from fertilizers, sewage, and animal manure) to rivers and streams, causing them to become eutrophic. Excessive nutrient input stimulates excessive plant growth (algae, periphyton attached algae, and nuisance plants). This enhanced plant growth can cause dense mats of filamentous algae that can expose juvenile mussels to entrainment or predation and be detrimental to the survival of juvenile mussels (Hartfield and Hartfield 1996,

p. 373). Excessive plant growth can also reduce dissolved oxygen in the water when dead plant material decomposes. In a review of the effects of eutrophication on mussels, Patzner and Muller (2001, p. 329) noted that stenoecious (narrowly tolerant) species disappear as waters become more eutrophic. They also refer to studies that associate increased levels of nitrate with the decline and absence of juvenile mussels (Patzner and Muller 2001, pp. 330–333). Filamentous algae may also displace certain species of fish, or otherwise affect fish–mussel interactions essential to recruitment (for example, Hartfield and Hartfield 1996, p. 373). Nutrient sources include fertilizers applied to agricultural fields and lawns, septic tanks, and municipal wastewater treatment facilities.

Because of their sedentary characteristics, mussels are extremely vulnerable to toxic effluents (Sheehan *et al.* 1989, pp. 139–140; Goudreau *et al.* 1993, pp. 216–227; Newton 2003, p. 2543). Descriptions of localized mortality have been provided for chemical spills and other discrete point-source discharges; however, rangewide decreases in mussel density and diversity may result from the more insidious effects of chronic, low-level contamination (Newton 2003, p. 2543, Newton *et al.* 2003, p. 2554). Freshwater mussel experts often report chemical contaminants as factors limiting to unionids (Richter *et al.* 1997, pp. 1081–1093). They note high sensitivity of early life stages to contaminants such as chlorine (Wang *et al.* 2007 pp. 2039–2046), metals (Keller and Zam 1991, p. 542; Jacobson *et al.* 1993, pp. 879–883), ammonia (Augspurger *et al.* 2003, pp. 2571–2574; Wang *et al.* 2007 pp. 2039–2046), and pesticides (Bringolf *et al.* 2007a,b pp. 2089–2092, pp. 2096–2099). Pesticide residues from agricultural, residential, or silvicultural activities enter streams mainly by surface runoff. Agricultural crops locally grown within the range of these mussels associated with high pesticide use include cotton, peanuts, corn, and soybeans. Chlorine, metals, and ammonia are common constituents in treated effluent from municipal and industrial wastewater treatment facilities. A total of 62 municipal and 39 industrial wastewater treatment facilities are permitted in Alabama and Florida to discharge treated effluent into surface waters of the three river drainages (FDEP 2010a; ADEM 2010a).

States maintain water-use classifications through issuance of National Pollutant Discharge Elimination System (NPDES) permits to industries, municipalities, and others that set maximum limits on certain pollutants or pollutant parameters. The Alabama Department of Environmental Management (ADEM) has designated the water use classification for most portions of the Escambia, Yellow, and Choctawhatchee Rivers as ''Fish and Wildlife'' (F&W), and a few portions (mostly lakes) as ''Swimming'' (S). The F&W designation establishes minimum water quality standards that are believed to protect existing species and water uses like fishing and recreation within the designated area, while the S classification establishes higher water quality standards that are protective of human contact with the water. The Florida Department of Environmental Protection (FDEP) classifies all three river drainages as Class III waters. The Class III designation establishes minimum water quality standards that are believed to protect species and uses such as recreation. The Choctawhatchee and Shoal Rivers are also designated as Outstanding Florida Waters (OFW) by the State of Florida. The designation prevents the discharge of pollutants, which would lower existing water quality or significantly degrade the OFW.

Section 303(d) of the Clean Water Act (33 U.S.C. 1251 et seq.) requires States to identify waters that do not fully support their designated use classification. These impaired water bodies are placed on the State's 303(d) list, and a total maximum daily load (TMDL) must be developed for the pollutant of concern. A TMDL is an estimate of the total load of pollutants that a segment of water can receive without exceeding applicable water quality criteria. Alabama's 303(d) list identifies a total of 25 impaired stream segments within the Escambia, Yellow, and Choctawhatchee River basins that either support populations of the eight species or that flow into streams that support them. The list identifies metals (mercury and lead), organic enrichment, pathogens, siltation, excess nutrients, or unknown toxicity as reasons for impairment (ADEM 2010b, pp. 4–8). Various potential point and non-point pollution sources are identified, such as atmospheric deposition, pasture grazing, feedlots, municipal, industrial, urban runoff, agriculture, and land development. Florida's 303(d) list identifies a total of 22 impaired stream segments within the basins that either support populations of seven of the species (the Alabama pearlshell does not occur in Florida) or that flow into streams that support them. The list identifies coliform bacteria, low dissolved oxygen (nutrients), and mercury (in fish tissue) as reasons for inclusion (FDEP 2010b, pp. 4–6).

While the negative effects of point-source discharges on aquatic communities in Alabama and Florida have been reduced over time by compliance with State and Federal regulations pertaining to water quality, there has been less success in dealing with nonpoint-source pollution impacts. Because these contaminant sources stem from urban surface runoff, private landowner activities (construction, grazing, agriculture, silviculture), and public construction works (bridge and highway construction and maintenance), they are often more difficult to regulate.

These mussels require stable stream and river habitats and activities that cause channel instability can negatively impact their populations. Activities such sand and gravel mining, the removal of large woody material, off-road vehicles use, and land use changes are known to cause channel destabilization. Activities that destabilize stream beds and channels can result in drastic alterations to stream geomorphology and consequently to the stream's ecosystem.

Instream gravel mining has been implicated in the destruction of mussel populations (Stansbery 1970, p. 10; Hartfield 1993, pp. 138–139). Instream sand and gravel mining can cause severe bank erosion, channel widening, destruction of riparian habitats, and other geomorphic changes (Kanehl and Lyons 1992, pp. 26–27; Brown *et al.* 1998, pp. 987–992), including head cuts that can extend considerable distances upstream from the mines (Hartfield 1993, pp. 138–139) and substrate disturbance and siltation impacts that can be realized for considerable distances downstream (Stansbery 1970, p. 10). Poorly located or inadequately designed mines in the flood plain can have similar effects and result in alterations to streams channels (Mossa and Coley, 2004, p. 2). For example, a mined area along Big Escambia Creek near Century, Florida resulted in the formation of a new channel through the mines, causing excessive sedimentation in downstream areas. A large restoration project was required to put the stream back into its natural channel. Numerous mining operations occur along a gravel vein in the upper Escambia and Choctawhatchee river drainages in Florida and Alabama (Metcalf 2012 pers. com).

Operations that remove large woody material from channels, either for navigation and maintenance (desnagging) or for the recovery of pre-cut submerged timber (deadhead

logging), have the potential to affect mussel communities by creating unstable substrates (Watters 1999, p. 269). These types of permitted activities are common in areas where these mussels occur. The removal of large logs may result in changes to sedimentation patterns and stream morphology, the erosion of banks and bars, and the consequent loss of habitat structure and species diversity (Watters 1999, p. 268; Cathey *et al.* unpub. report, p. 1).

Low flow conditions provide access to stream margins and channels for off-road vehicles. The practice of driving off-road vehicles within stream channels has been observed in the upper Conecuh and Choctawhatchee river drainages (Metcalf 2012 pers. com). These vehicles may destabilize stream banks, increase sedimentation rates, and may also directly crush mussels (Stringfellow and Gagnon 2001, p. 3).

Land use activities such as land clearing and development can cause channel instability by accelerating stormwater runoff into streams. Increased runoff rates can result in bank erosion and bed scour (Brim Box and Mossa 1999, p. 103), and can lead to channel incision (Booth 1990, p. 407; Doyle *et al.* 2000, p. 157, 175). These flow regime changes can significantly and rapidly alter the morphology of the stream channel, and can eventually lead to degradation throughout the watershed as sediments eroded in the upper portions are deposited in the lower reaches (Doyle *et al.* 2000, pp. 156, 175).

The damming of rivers has been a major factor contributing to the demise of freshwater mussels (Bogan 1993, p. 604). Dams eliminate or reduce river flow within impounded areas, trap silts and cause sediment deposition, alter water temperature and dissolved oxygen levels, change downstream water flow and quality, affect normal flood patterns, and block upstream and downstream movement of mussels and their host fishes (Bogan 1993, p. 604; Vaughn and Taylor 1999, pp. 915–917; Watters 1999, pp. 261–264; McAllister *et al.* 2000, p. iii; Marcinek *et al.* 2005, pp. 20–21). Downstream of dams, mollusk declines are associated with changes and fluctuation in flow regime, scouring and erosion, reduced dissolved oxygen levels, water temperatures, and changes in resident fish assemblages (Williams *et al.* 1993, p. 7; Neves *et al.* 1997, pp. 63–64; Watters 1999, pp. 261–264; Marcinek *et al.* 2005, pp. 20–21). Because rivers are linear systems, these alterations can cause mussel declines for many miles downstream of the dam (Vaughn and Taylor 1999, p. 916).

Three significant mainstem impoundments are situated within the three drainages, all in Alabama. Constructed in 1923 for hydroelectric power generation, Point A Lake and Gantt Lake dams are located on the mainstem of the Conecuh River in Covington County, Alabama. The downstream dam, Point A, is 41 ft. high, and Gantt dam is 35 ft. high. Combined, these two dams impound approximately 3,400 acres at normal pool. Both impoundments have limited storage capacity and are operated as modified run-of-river projects with daily peaking. For example, when inflows to Gantt are greater than 1,500 cubic feet per second (cfs), the outflow matches the inflow at Point A. However, during the summer months, when inflows can fall below 1,500 cfs, a portion of the inflow may be stored and released when power generation is in high demand. Regardless of the inflow, Point A dam has a minimum continuous discharge requirement of 500 cfs and a requirement to meet a dissolved oxygen level of no less than 4.0 milligram per liter (mg/l).

The Elba dam on the Pea River mainstem near Elba, Alabama, was constructed in 1903 for power generation. The dam generates power during peak periods and stores some water, but does not have a reservoir, only a widened channel which is roughly one and a half to two times wider upstream of the dam than downstream. The 29 ft. high structure is a barrier to to upstream fish migration (Williams *et al.* 2008, p. 34). Channel scour (deepening of the streambed as a result of erosion) is occurring downstream of the Elba Dam (Williams 2010 pers. comm.).

All three dams are barriers to upstream fish migration and to the movement of potential mussel host species. The Service (2003 pp. 13392–3) noted that Point A Dam and Elba Dam prevent threatened Gulf sturgeon (*Acipenser oxyrinchus desotoi*) movement farther upstream at all flow conditions. By blocking fish movement, the dams may prevent gene exchange between upstream and downstream mussel populations. Gulf sturgeon have been shown to serve as a primary host for mussel larvae (Fritts *et al.,* in review), although we do not know if they serve as a host for any of these eight species. The three dams currently separate populations of southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe. In addition, two smaller impoundments are located on tributary streams. Lake Frank Jackson is situated on Lightwood Knot Creek, a tributary to the Yellow River in Covington County, Alabama; Lake Tholocco, on Claybank Creek, is a tributary to the Choctawhatchee River in Dale County, Alabama. Waters released from these two shallow impoundments can have extremely elevated temperatures in summer, which alters the normal temperature cycle downstream (Williams *et al.* 2000 unpub. data).

The potential exists for more dams to be constructed within the three drainages, and at least four additional impoundments are proposed. These include proposed impoundments on Murder Creek and Big Escambia Creek in the Escambia River drainage in Alabama, the Yellow River mainstem in Florida, and the Little Choctawhatchee River in Alabama. These proposed projects have implications for populations of all eight species. Given projected population increases and the need for municipal water supply, other proposals for impoundment construction are expected in the future.

In summary, the loss and degradation of habitat from various forms of pollution, stream bed destabilization, and impoundments are a threat to the continued existence of these eight species. Degradation from sedimentation and contaminants is a threat to the habitat and water quality necessary to support these species throughout their entire ranges. Sedimentation can cause mortality by suffocation; impair the ability to feed, respire, and reproduce; and destabilize substrate. Contaminants associated with municipal and industrial effluents (metals, ammonia, chlorine) and with agriculture and silviculture (pesticides) are lethal to mussels, particularly to the highly sensitive early life stages. These mussels require stabile stream and river channels, and quickly disappear from areas destabilized by gravel mining, the removal of large woody material, off-road vehicle use, and increased surface runoff. The effects of impoundments are more subtle, but can cause severe alternations to mussel habitat both upstream and downstream of the dam, and can impair dispersal and breeding ability. While recent surveys for these species have documented several new populations, they have also documented a decline in (and the loss of) many of the known populations due to human impact. Therefore, we have determined that the present or threatened destruction, modification, or curtailment of habitat and range is a threat with severe impact to the Alabama pearlshell, round ebonyshell, southern kidneyshell, and Choctaw bean, and is a threat with moderate impact to the tapered pigtoe, narrow

pigtoe, southern sandshell, and fuzzy pigtoe. This threat is current and is projected to continue and increase into the future with additional anthropogenic pressures.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

None of the eight mussels are commercially valuable species, and the streams and rivers that they inhabit are not subject to harvesting activities for commercial mussel species. Although the eight species have been taken for scientific and private collections in the past, collecting is not considered a factor in the decline of these species. Such activity may increase as their rarity becomes known; however, we have no specific information indicating that overcollection is currently a threat. Therefore, we find that overutilization for commercial, recreational, scientific, or educational purposes is not a threat to the eight mussels at this time.

C. Disease or Predation

Diseases of freshwater mussels are poorly known, and we have no specific information indicating that disease poses a threat to populations of these eight species. Juvenile and adult mussels are prey items for some invertebrate predators and parasites (for example, nematodes and mites), and provide prey for a few vertebrate species (for example, raccoons, muskrats, otters, and turtles) (Hart and Fuller 1974, pp. 225–240). However, we have no evidence of any specific declines in these species due to predation. Therefore, diseases and predation of freshwater mussels remain largely unstudied and are not considered a threat to the eight mussels at this time.

D. The Inadequacy of Existing Regulatory Mechanisms

There is no information on the sensitivity of the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, or fuzzy pigtoe to aquatic pollutants. Current State and Federal regulations regarding pollutants are designed to be protective of aquatic organisms; however, freshwater mussels may be more susceptible to some pollutants than test organisms commonly used in bioassay tests. A multitude of bioassay tests conducted on 16 mussel species (summarized by Augspurger *et al.* 2007, pp. 2025–2028) show that freshwater mussels are more sensitive than previously known to some chemical contaminants including chlorine, ammonia, copper, the pesticides chlorothalonil and glyphosate, and the surfactant MON 0818. For example, several recent studies have demonstrated that U.S. Environmental Protection Agency (EPA) criteria for ammonia may not be protective of freshwater mussels (Augspurger *et al.* 2003, p. 2571; Newton *et al.* 2003, pp. 2559–2560; Mummert *et al.* 2003, pp. 2548–2552).

Ammonia is an important aquatic pollutant because of its relatively high toxicity and common occurrence in riverine systems. This has application to the expected sources of these chemicals in the environment. Significant sources of nutrient enrichment leading to elevated ammonia include industrial wastewater, municipal wastewater treatment plant effluents, and urban and agricultural runoff (chemical fertilizers and animal wastes) (Augspurger *et al.* 2007, p. 2026). Elevated copper in surface waters can result from natural runoff sources, but is more often associated with a private or municipal wastewater effluent. Pesticide residues enter streams from agricultural, residential, or silvicultural runoff. Environmental chlorine concentrations will most often be associated with a point source discharge such as a municipal wastewater treatment facility.

As indicated in the Factor A discussion above, sedimentation is considered the most significant threat to these eight species. Best management practices (BMPs) for sediment and erosion control are often recommended or required for construction projects; however, compliance, monitoring, and enforcement of these recommendations are often poorly implemented. Although unpaved roads likely contribute the majority of sediment to the streams and rivers in the basins, other sources including forestry, row crops, and construction contribute to the total sediment load.

States are required under the Clean Water Act to establish a TMDL for the pollutants of concern that the water body can receive without exceeding the applicable standard (see discussion under Factor A). However, the Federal Clean Water Act is not fully utilized in the protection of these river systems. For example, of the 51 impaired water bodies identified within the drainages, less than one-fourth currently have approved TMDLs (ADEM 2010c, pp. 3–6; FDEP 2010b, pp. 4–6).

In summary, some regulatory mechanisms exist that protect aquatic species; however, these regulations are not effective at protecting mussels and their habitats from sedimentation and contaminants. Pollution from non-point sources is the greatest threat to these eight mussels (see Factor A discussion); however, this type of pollution is difficult to regulate and not effectively controlled by State and Federal water quality regulations. Therefore, we find current existing regulatory mechanisms are inadequate to protect the eight mussels throughout their ranges. This threat is current and is projected to continue into the future.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Random Catastrophic Events

The Gulf coastal region is prone to extreme hydrologic events. Extended droughts result from persistent high-pressure systems, which inhibit moisture from the Gulf of Mexico from reaching the region (Jeffcoat *et al.* 1991, p. 163–170). Warm, humid air from the Gulf of Mexico can produce strong frontal systems and tropical storms resulting in heavy rainfall and extensive flooding (Jeffcoat *et al.* 1991, p. 163–170). Although floods and droughts are a natural part of the hydrologic processes that occur in these river systems, these events may contribute to the further decline of mussel populations suffering the effects of other threats.

During high flows, flood scour can dislodge mussels where they may be injured, buried, or swept into unsuitable habitats, or mussels may be stranded and perish when flood waters recede (Vannote and Minshall 1982, p. 4105; Tucker 1996, p. 435; Hastie *et al.* 2001, pp. 107–115; Peterson *et al.* 2011, unpaginated). Heavy spring rains in 2009 resulted in severe flooding in the basins that destroyed numerous stream crossings.

During drought, stream channels may become disconnected pools where mussels are exposed to higher water temperatures, lower dissolved oxygen levels, and predators, or channels may become dewatered entirely. Johnson *et al.* (2001, p. 6) monitored mussel responses during a severe drought in 2000 in tributaries of the Lower Flint River in Georgia, and found that most mortality occurred when dissolved oxygen levels dropped below 5 mg/L. Furthermore, increased human demand and competition for surface and ground water resources for irrigation and consumption during drought can cause drastic reductions in stream flows and alterations to hydrology (Golladay *et al.* 2004, p. 504; Golladay *et al.* 2007 unpaginated). Extended droughts occurred in the Southeast during 1998 to 2002, and again in 2006 to 2008. The effects of these recent droughts on these eight mussels are unknown; however,

substantial declines in mussel diversity and abundance as a direct result of drought have been documented in southeastern streams (for example, Golladay *et al.* 2004, pp. 494–503; Haag and Warren 2008, p. 1165). The Alabama pearlshell is particularly at risk during drought as its headwater stream habitats are vulnerable to dewatering. Shelton (1995, p. 4 unpub. report) reported one of the most common causes of mortality in the species is due to stranding by extreme low water.

There is a growing concern that climate change may lead to increased frequency of severe storms and droughts (McLaughlin *et al.* 2002, p. 6074; Golladay *et al.* 2004, p. 504; Cook *et al.* 2004, p. 1015). Specific effects of climate change to mussels, their habitat, and their fish hosts could include changes in stream temperature regimes, the timing and levels of precipitation causing more frequent and severe floods and droughts, and alien species introductions. Increases in temperature and reductions in flow may also lower dissolved oxygen levels in interstitial habitats, which can be lethal to juveniles (Sparks and Strayer 1998, pp. 131–133). Effects to mussel populations from these environmental changes could include reduced abundance and biomass, altered species composition, and host fish considerations (Galbraith *et al.* 2010, pp. 1180–1182). The present conservation status, complex life histories, and specific habitat requirements of freshwater mussels suggest that they may be quite sensitive to climate change (Hastie *et al.* 2003, p. 45).

The linear nature of their habitat, reduced range, and small population sizes make these eight mussels vulnerable to contaminant spills. Spills as a result of transportation accidents are a constant, potential threat as numerous highways and railroads cross the stream channels of the basins. Also, more than 400 oil wells are located within Conecuh and Escambia Counties, Alabama. In Conecuh County, most of these wells are concentrated in the Cedar Creek drainage, which supports at least two populations of the Alabama pearlshell. These wells are subject to periodic spills either directly at the well site or associated with the transport of the oil. For example, on February 5, 2010, an oil spill occurred in the headwaters of Feagin Creek. Feagin Creek is located between two known pearlshell locations, Little Cedar and Amos Mill creeks. The resulting spill discharged more than 150 gallons of oil into Feagin Creek. Although there were no known populations of the pearlshell in Feagin Creek, this type of spill could have easily occurred in one of the adjacent watersheds that supports the pearlshell. Since 2000, there have been 13 spills reported in Conecuh, 36 in Escambia, and 33 in Covington Counties, Alabama.

Reduced Genetic Diversity

Population fragmentation and isolation prohibits the natural interchange of genetic material among populations. Low numbers of individuals within the isolated populations have greater susceptibility to deleterious genetic effects, including inbreeding depression and loss of genetic variation (Lynch 1996, pp. 493–494). Small, isolated populations, therefore, are more susceptible to environmental pressures, including habitat degradation and stochastic events, and thus are the most susceptible to extinction (Primack 2008, pp. 151–153). It is unknown if any of the eight mussel species are currently experiencing a loss of genetic diversity. However, surviving populations of the Alabama pearlshell, round ebonyshell, and southern kidneyshell do have highly restricted or reduced ranges, fragmented habitats, and extremely small population sizes.

Host Fish Considerations

As mentioned in the *General Biology* section above, all of these eight species require a fish host in order to complete their life cycle. Therefore, these mussels would be adversely affected by the loss or reduction of fish species essential to their parasitic glochidial stage. The blacktail shiner (*Cyprinella venusta*), a common and abundant fish species, was found to serve as a glochidial host for the tapered pigtoe and fuzzy pigtoe (White *et al.* 2008, p. 123). The specific hosts for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, narrow pigtoe, and southern sandshell and have not been identified; however, other species of the same genera are known to parasitize cyprinids (minnows), centrarchids (sunfish), and percids (darters) (Haag and Warren 1997, pp. 580–581, 583; Keller and Ruessler 1997, p. 405; O'Brien and Brim Box 1999, p. 134; Haag *et al.* 1999, p. 150; Haag and Warren 2003, pp. 81–82; Luo 1993, p. 16).

Nonindigenous Species

The Asian clam (*Corbicula fluminea*) has been introduced to the drainages and may be adversely affecting these eight mussels through direct competition for space and resources. The Asian clam was first detected in eastern Gulf drainages in the early 1960s, and is presently widespread throughout the Escambia, Yellow, and Choctawhatchee River drainages (Heard 1975, p. 2). The invasion of the Asian clam in these and in other eastern Gulf drainages has been accompanied by drastic declines in populations of native mussels (see observations by Heard 1975, p. 2; and Shelton 1995, p. 4 unpub. report). However, it is difficult to say whether the Asian clam competitively excluded the native mussels, or if it was simply tolerant of whatever caused the mussels to disappear. The Asian clam may pose a direct threat to native mussels, particularly as juveniles, as a competitor for resources such as food, nutrients, and space (Neves and Widlak 1987, p. 6). Dense populations of Asian clams may ingest large numbers of unionid sperm, glochidia, and newly metamorphosed juveniles, and may actively disturb sediments, reducing habitable space for juvenile native mussels, or displacing them downstream (Strayer 1999, p. 82; Yeager *et al.* 2000, pp. 255–256).

The flathead catfish (*Pylodictis olivaris*) has been introduced to the drainages and may be adversely impacting native fish populations. The flathead catfish is a large predator native to the central United States, and since its introduction outside its native range, it has altered the composition of native fish populations through predation (Boschung and Mayden 2004, p. 350). Diet and selectivity studies of introduced flathead catfish in coastal North Carolina river systems show it feeds primarily on other fish species (Guier *et al.* 1984, pp. 617–620; Pine *et al.* 2005, p. 909). The flathead catfish is now well-established in the Escambia, Yellow, and Choctawhatchee River drainages, and its numbers appear to be growing (Strickland 2010 pers. comm.). Biologists working in the Florida portions of these drainages have observed a correlation between the increase in flathead catfish numbers and a decrease in numbers of other native fish species, particularly of bullhead catfish (*Ameiurus* sp.) and redbreast sunfish (*Lepomis auritus*) (Strickland 2010 pers. comm.). Although we do not know the specific fish hosts for six of the mussel species, the loss or reduction of native fishes in general could affect their ability to recruit.

In summary, a variety of natural or manmade factors currently are a threat to these eight mussels. Stochastic events such as droughts and floods have occurred in these three river drainages in the past, and climate change may increase the frequency and intensity of

similar events in the future. The withdrawal of surface and ground waters during drought can cause further drastic flow reductions and alterations that may cause declines in mussel abundance and distribution. Contaminant spills have also occurred in these drainages and currently are a threat, particularly in the Alabama portion of the Escambia River drainage, where there are numerous oil wells. It is not known if these species are currently experiencing a loss of genetic viability; however, their restricted or reduced ranges, fragmented habitats, and small population sizes increases the risks and consequences of inbreeding depression and loss of genetic variation. Introduced species, such as the Asian clam, may adversely impact these mussels through direct competition for space and resources. Another introduced species, the flathead catfish, may consume host fishes, thereby affecting mussel recruitment. Therefore, we have determined that other natural or manmade factors, specifically threats from flooding, drought, and contaminant spills, are severe threats to the Alabama pearlshell, round ebonyshell, southern kidneyshell, and Choctaw bean, and they are moderate threats to the tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe. These threats are currently impacting these species and are projected to continue or increase in the future. We have determined that threats from the Asian clam have moderate impacts to the Alabama pearlshell, round ebonyshell, southern kidneyshell, southern sandshell, and Choctaw bean, and these threats have low impacts to the tapered pigtoe, narrow pigtoe, and fuzzy pigtoe. We have determined that reduced genetic diversity, the absence or reduction of fish hosts, and the presence of flathead catfish have the potential to adversely impact the eight mussels. However, we do not know the intensity of these threats at this time.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe. Section 3(6) of the Act defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range,'' and section 3(20) of the Act defines a threatened species as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' As described in detail above, these eight species are currently at risk throughout all of their respective ranges due to ongoing threats of habitat destruction and modification (Factor A), inadequacy of existing regulatory mechanisms (Factor D), and other natural or manmade factors affecting their continued existence (Factor E). Specifically, these factors include excessive sedimentation, municipal and industrial effluents, pesticides, excessive nutrients, impoundment of stream channels, recurring drought and flooding, contaminant spills, and the introduced Asian clam. In addition, existing regulatory mechanisms are inadequate to ameliorate some of the threats affecting these mussels and their habitats. Based on the best available science, these threats are currently impacting these species and are projected to continue and potentially worsen in the future. These eight mussels are also at increased threat due to the loss of genetic viability and the reduction or absence of fish hosts (described under Factor E); however, these threats are not currently known to be imminent.

Species with small ranges, few populations, and small or declining population sizes, are the most vulnerable to extinction (Primack 2008, p. 137). The effects of certain factors, particularly habitat degradation and loss, catastrophic events, and introduced species, increase in magnitude when population size is small (Soulé 1980, pp. 33, 71; Primack 2008, pp. 133–135, 152). The impact of habitat degradation, catastrophic events, and introduced species are more severe to the Alabama pearlshell, round ebonyshell, southern kidneyshell, and Choctaw bean than the other four species, which have few or isolated populations coupled with low numbers of individuals and limited or reduced ranges. Nonetheless, the tapered pigtoe, narrow pigtoe, southern sandshell and fuzzy pigtoe, which still occur in much of their historical ranges have been eliminated from historic streams and main channel locations and have declining numbers of individuals. When combining the effects of historical, current, and future habitat loss and degradation; historical and ongoing drought; and the exacerbating effects of small and declining population sizes and curtailed ranges, the Alabama pearlshell, round ebonyshell, southern kidneyshell, and Choctaw bean are in danger of extinction throughout all of their ranges, and the tapered pigtoe, narrow pigtoe, southern sandshell and fuzzy pigtoe are likely to become endangered within the foreseeable future throughout all of their ranges. In addition, any factor (i.e., habitat loss or natural and manmade factors) that results in a further decline in habitat or individuals may be problematic for the long-term recovery of these species.

Therefore, based on the best available scientific and commercial information, we are listing the Alabama pearlshell, round ebonyshell, southern kidneyshell, and Choctaw bean as endangered species throughout all of their ranges, and the tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe as threatened species throughout all of their ranges. In the proposed rule we examined all available information on the eight species to determine if any significant portions of their ranges may warrant a different status. However, because of their limited and curtailed ranges, and uniformity of the threats throughout them, we find there are no significant portions of any of the species' ranges that warrant a different determination of status.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection measures required of Federal agencies and the prohibitions against certain activities involving listed wildlife are discussed in Effects of Critical Habitat Designation and are further discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a

point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (comprised of species experts, Federal and State agencies, nongovernment organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Panama City Field Office (see **ADDRESSES**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Once these species are listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, under to section 6 of the Act, the States of Alabama and Florida will be eligible for Federal funds to implement management actions that promote the protection or recovery of these eight mussel species. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include: The management of and any other landscape-altering activities on Federal lands administered by the Department of Defense and U.S. Forest Service; issuance of section 404 Clean Water Act permits by the U.S. Army Corps of Engineers; licensing of hydroelectric dams, and construction and management of gas pipeline and power line rights-of-way approved by the Federal Energy Regulatory Commission; construction and maintenance of roads or highways funded by the Federal Highway Administration; and land management practices administered by the Department of Agriculture.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.21 for endangered wildlife, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. Under the Lacey Act (18 U.S.C. 42–43; 16 U.S.C. 3371–3378), it is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered wildlife, and at 17.32 for threatened wildlife. With regard to endangered wildlife, a permit must be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on planned and ongoing activities within the range of species proposed for listing. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act.

(2) Introduction of nonnative species that compete with or prey upon these eight mussel species, such as the zebra mussel (*Dreissena polymorpha*) and the black carp (*Mylopharyngodon piceus*).

(3) The unauthorized release of biological control agents that attack any life stage of these species.

(4) Unauthorized modification of the channel or water flow of any stream or water body in which these species are known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Panama City Ecological Services Field Office (see **ADDRESSES**).

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in critical habitat if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical and biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are the specific elements of physical or biological features that provide for a species' life-history processes, are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary sources of information include the articles in peer-reviewed journals, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. Climate change will be a particular challenge for biodiversity because the interaction of additional stressors associated with climate change and current stressors may push species beyond their ability to survive (Lovejoy 2005, pp. 325–326). The synergistic implications of climate change and habitat fragmentation are the most threatening facet of climate change for biodiversity (Hannah and Lovejoy 2005, p.4). Current climate change predictions for terrestrial areas in the Northern Hemisphere indicate warmer air temperatures, more intense precipitation events, and increased summer continental drying (Field *et al.* 1999, pp. 1–3; Hayhoe *et al.* 2004, p. 12422; Cayan *et al.* 2005, p. 6; Intergovernmental Panel on Climate Change (IPCC) 2007, p. 1181). Climate change may lead to increased frequency and duration of severe storms and droughts (Golladay *et al.* 2004, p. 504; McLaughlin *et al.* 2002, p. 6074; Cook *et al.* 2004, p. 1015).

We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to insure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) the prohibitions of section 9 of the Act if actions occurring in these areas may affect the species. Federally funded or permitted projects affecting listed

species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features

In accordance with section 3(5)(A)(i) and 4(b)(1)(A) of the Act and the regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied at the time of listing to designate as critical habitat, we consider the physical and biological features (PBFs) essential to the conservation of the species, and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historic, geographical, and ecological distributions of a species.

We derive the specific physical or biological features essential for Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe from studies of these species' habitat, ecology, and life history as described in the Critical Habitat section of the proposed rule to designate critical habitat published in the **Federal Register** on October 4, 2011 (76 FR 61482), and in the information presented below.

We have determined that Alabama pearlshell, round ebonyshell, southern sandshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, and fuzzy pigtoe require the following physical or biological features:

Space for Individual and Population Growth and for Normal Behavior

The Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe are all historically associated with the Escambia, Yellow, and Choctawhatchee river drainages in Alabama and Florida. The Alabama pearlshell is also known from three locations in the Mobile River Basin; however, only one of those is considered to be currently occupied. The eight mussels are found embedded in stable substrates composed mainly of fine to coarse sand, with occasional patches of clay or gravel (Williams *et al.* 2008, pp. 32–34), and within areas of sufficient current velocities to remove finer sediments. These habitats are formed and maintained by water quantity, channel slope, and normal sediment input to the system. Changes in one or more of these parameters can result in channel degradation or channel aggradation, with serious effects to mussels. The decline of the mussel fauna of these eastern Gulf Coastal Plain drainages is not well understood, but is primarily associated with the loss of habitats and channel instability due to excessive sedimentation (Williams and Butler 1994, p. 55). Sedimentation has been determined to be a major factor in habitat destruction, resulting in corresponding shift in mussel fauna (Brim Box and Mossa 1999, p. 102). Stable stream bottom substrates not only provide space for populations of these eight mussel species, but also provide cover and shelter and sites for breeding, reproduction, and growth of offspring. Therefore, based on the information above, we identify stream channel stability to be a physical or biological feature for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe.

Food

Freshwater mussels, such as these eight species, filter algae, detritus, and bacteria from the water column (Williams *et al.* 2008, p. 67). For the first several months, juvenile mussels employ pedal (foot) feeding, extracting bacteria, algae, and detritus from the sediment (Yeager *et al.* 1994, pp. 217–221). Food availability and quality are affected by habitat stability, floodplain connectivity, water flow, and water quality. Therefore, based on the information above, we identify adequate food availability and quality to be a physical or biological feature for these species.

Water

The Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe are riverine species that depend upon adequate water flow. Continuously flowing water is a habitat feature associated with all of the eight species. Flowing water maintains the stream bottom habitats where these species are found, transports food items to the sedentary juvenile and adult life stages, transports sperm to the adult females, provides oxygen for respiration, and removes wastes. Populations of the narrow pigtoe were recently discovered in Gantt and Point A Lakes (Williams *et al.* 2008, p. 317), manmade reservoirs on the Conecuh River mainstem in Alabama. We attribute the occurrence of the species in these impoundments to the relatively small size of the reservoirs, and to the operational regime of the dams. As mentioned under Factor A, both impoundments have limited storage capacity and are operated as modified run-of-river projects with daily peaking. Therefore, most of the time, the outflow matches the inflow. Also, some areas in the reservoirs are narrow and riverine, for instance the area around Dunns Bridge on Gantt Lake. Here, narrow pigtoe were found in relatively high numbers in firm, stable sand substrates with little or no silt accumulation (Williams 2009, pers. comm.; Pursifull 2006, pers. obs.). Although the natural state of the river's hydrological flow regime is modified, it does retain the features necessary to maintain the benthic habitats where the species are found. Therefore, based on the information above, we identify flowing water to be a physical or biological feature for these eight mussel species.

The ranges of standard physical and chemical water quality parameters (such as temperature, dissolved oxygen, pH, and conductivity) that define suitable habitat conditions for the eight species have not been investigated. However, as relatively sedentary animals, mussels must tolerate the full range of such parameters that occur naturally within the streams where they persist. Both the amount (flow) and the physical and chemical conditions (water quality) where each of the eight species currently exists vary widely according to season, precipitation events, and seasonal human activities within the watershed. Conditions across their historical ranges vary even more due to watershed size, geology, geography, and differences in human population densities and land uses. In general, each of the species survives in areas where the magnitude, frequency, duration, and seasonality of water flow are adequate to

maintain stable habitats (for example, sufficient flow to remove fine particles and sediments without causing degradation), and where water quality is adequate for year-round survival (for example, moderate to high levels of dissolved oxygen, low to moderate input of nutrients, and relatively unpolluted water and sediments). Therefore, based on the information above, we identify adequate water flow and water quality (as defined below) to be a physical or biological feature for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe.

We currently believe that most numeric standards for pollutants and water quality parameters (for example, dissolved oxygen, pH, heavy metals) that have been adopted by the States under the Clean Water Act represent levels that are essential to the conservation of each of these eight mussels. However, some States' standards may not adequately protect mollusks, or are not being appropriately measured, monitored, or achieved in some reaches (see Factors A and D above). The Service is currently in consultation with the EPA to evaluate the protectiveness of criteria approved in EPA's water quality standards for threatened and endangered species and their critical habitats as described in the memorandum of agreement that our agencies signed in 2001 (66 FR 11201, February 22, 2001). Other factors that can potentially alter water quality are droughts and periods of low flow, non-point-source runoff from adjacent land surfaces (for example, excessive amounts of sediments, nutrients, and pesticides), point-source discharges from municipal and industrial wastewater treatment facilities (for example, excessive amounts of ammonia, chlorine, and metals), and random spills or unregulated discharge events. This could be particularly harmful during drought conditions when flows are depressed and pollutants are more concentrated. Therefore, adequate water quality is essential for normal behavior, growth, and viability during all life stages of the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe.

Sites for Breeding, Reproduction, or Rearing

Freshwater mussels require a host fish for transformation of larval mussels (glochidia) to juvenile mussels (Williams *et al.* 2008, p. 68). Thus, the presence of the appropriate host fishes to complete the reproductive life cycle is essential to the conservation of these eight mussels. The blacktail shiner was found to serve as a host for the fuzzy pigtoe and tapered pigtoe in a preliminary study trial (White *et al.* 2008, p. 123). This minnow species occurs in a variety of habitats in drainages throughout the coastal plain (Mettee *et al.* 1996, pp. 174–175). The specific host fish(es) for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, narrow pigtoe, and southern sandshell are not currently known; however, other species of the same genera are known to parasitize cyprinids (minnows), centrarchids (sunfish), and percids (darters) (Haag and Warren 2003, pp. 81–82; Haag and Warren 1997, pp. 580–581, 583; Keller and Ruessler 1997, p. 405; O'Brien and Brim Box 1999, p. 134; Haag *et al.* 1999, p. 150). Therefore, based on the information above, we identify the presence of the appropriate host fishes to complete the reproductive life cycle to be a physical or biological feature for these eight mussel species.

Juvenile mussels require stable bottom habitats for growth and survival. Excessive sediments or dense growth of filamentous algae can expose juvenile mussels to entrainment or predation and be detrimental to the survival of juvenile mussels (Hartfield and Hartfield 1996, p. 373). Geomorphic instability can result in the loss of habitats and juvenile mussels due to scouring or deposition (Hartfield 1993, p. 138). Therefore, based on the information above, we identify stable bottom substrate with low to moderate amounts of filamentous algae growth to be a physical or biological feature for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe.

Primary Constituent Elements for the Eight Mussels

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of these eight mussel species in areas occupied at the time of listing, focusing on the features' primary constituent elements (PCEs). Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we have determined that the primary constituent elements specific to the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe are:

(1) Geomorphically stable stream and river channels and banks (channels that maintain lateral dimensions, longitudinal profiles, and sinuosity patterns over time without an aggrading or degrading bed elevation).

(2) Stable substrates of sand or mixtures of sand with clay or gravel with low to moderate amounts of fine sediment and attached filamentous algae.

(3) A hydrologic flow regime (magnitude, frequency, duration, and seasonality of discharge over time) necessary to maintain benthic habitats where the species are found, and to maintain connectivity of rivers with the floodplain, allowing the exchange of nutrients and sediment for habitat maintenance, food availability, and spawning habitat for native fishes.

(4) Water quality, including temperature (not greater than 32 °C), pH (between 6.0 to 8.5), oxygen content (not less than 5.0 mg/L), hardness, turbidity, and other chemical characteristics necessary for normal behavior, growth, and viability of all life stages.

(5) The presence of fish hosts. Diverse assemblages of native fish species will serve as a potential indication of host fish presence until appropriate host fishes can be identified. For the fuzzy pigtoe and tapered pigtoe, the presence of blacktail shiner (*Cyprinella venusta*) will serve as a potential indication of fish host presence.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by these species at the time of listing contain features that are essential to their conservation and that may require special management considerations or protections. None of the portions of the critical habitat units for these species below has been designated as critical habitat for other mussel species that are already listed under the Act. None of the areas is presently under special management or protection provided by a legally operative management plan or agreement for the conservation of these species.

Many of the threats to the eight mussels and their habitat are pervasive and common in all of the nine units that we are designating as critical habitat

(see below). These include the potential of significant changes in stream bed material composition and quality by activities such as construction projects, livestock grazing, timber harvesting, and other watershed and floodplain disturbances that release sediments or nutrients into the water; the potential of significant alteration of water chemistry or water quality; the potential of anthropogenic activities such as channelization, impoundment, and channel excavation that could cause aggradation or degradation of the channel bed elevation or significant bank erosion; and the potential of significant changes in the existing flow regime due to such activities as impoundment, water diversion, or water withdrawal. Because the areas we are designating as critical habitat below are facing these threats, they require special management consideration and protection.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we used the best scientific and commercial data available to designate critical habitat. We reviewed available information pertaining to the habitat requirements of these species. In accordance with the Act and its implementing regulation at 50 CFR 424.12(e), we considered whether designating additional areas—outside those currently occupied (that is those occupied at the time of listing)—are necessary to ensure the conservation of the species. We are designating critical habitat in areas within the geographical area occupied by the species at the time of listing (2012). We also are designating specific areas outside the geographical area occupied by the species at the time of listing, that were historically occupied but are presently unoccupied, because we have determined that such areas are essential for the conservation of these species.

We began our analysis by considering historical and current ranges of each of the eight species. Sources of this information include research published in peer-reviewed articles and books, agency reports, museum collections, and surveys by biologists (see Background section). We then identified the specific areas that are occupied by each of the eight mussels and that contain one or more of the physical or biological features. We defined occupied habitat as those stream reaches known to be currently occupied by any of the eight species. To identify the currently occupied stream reaches, we used survey data collected from 1995 to 2012. Several surveys were conducted in the basins between the years of 1995 to 2012 (Shelton 1995 unpub. report; Shelton 1999 in litt.; Blalock-Herod *et al.* 2005; Pilarczyk *et al.* 2006; Shelton *et al.* 2007 unpub. report; Gangloff and Hartfield 2009; Gangloff 2010–12, unpub. data). These surveys were used to assess the current conservation status of the species, and extended their known ranges. For this reason, we considered the year 1995 to be the demarcation between historical and current records. To identify historically occupied stream reaches, we used survey data between the late 1800s and 1994. Therefore, if a species was known to occur in an area prior to 1995, but was not collected in the same area since then, the stream reach is considered historically occupied.

We then evaluated occupied stream reaches to delineate the probable upstream and downstream extent of each species' distribution. Known occurrences for some mussel species are extremely localized, and rare mussels can be difficult to locate. In addition, creek and river habitats are highly dependent upon upstream and downstream channel habitat conditions for their maintenance. Therefore, where more than one occurrence record of a particular species was found within a stream reach, we considered the entire reach between the uppermost and lowermost locations as occupied habitat.

We then considered whether this essential area was adequate for the conservation of each of the eight species. Small, isolated, aquatic populations are subject to chance catastrophic events and to changes in human activities and land use practices that may result in their elimination. Larger, more contiguous populations can reduce the threat of extinction due to habitat fragmentation and isolation. For these reasons, we believe that conservation of the Alabama pearlshell and southern kidneyshell requires expanding their ranges into currently unoccupied portions of their historical habitat. Given that threats to these two species are compounded by their limited distribution and isolation, it is unlikely that currently occupied habitat is adequate for their conservation. The range of each has been severely curtailed, their occupied habitats are limited and isolated, and population sizes are small. For example, the Alabama pearlshell is no longer believed to occur in the Limestone Creek system (Monroe County), several tributaries in the Murder Creek system, or in the Patsaliga Creek drainage. The southern kidneyshell once occurred in all three river basins, but is currently known only from the Choctawhatchee basin. While occupied units provide habitat for current populations, these species are at high risk of extirpation and extinction from stochastic events, whether periodic natural events or potential human-induced events (see Summary of Factors Affecting the Species). The inclusion of essential unoccupied areas will provide habitat for population reintroduction and will decrease the risk of extinction. Based on the best scientific data available, areas not currently occupied by the Alabama pearlshell and southern kidneyshell are essential for their conservation, with one exception. We eliminated from consideration the Yellow River drainage as critical habitat for the southern kidneyshell. Its occurrence in the Yellow River is based on a 1919 collection of one specimen from Hollis Creek in Covington County, Alabama. However, we believe this single, historical collection is not sufficient to support the conclusion that any portions of the Yellow River drainage are essential to the conservation of the southern kidneyshell at this time. Otherwise, all of the stream habitat areas designated as critical habitat that are currently not known to be occupied contain sufficient physical or biological features (e.g., geomorphically stable channels, perennial water flows, adequate water quality, and appropriate benthic substrates) to support life-history functions of the mussels. The stream reaches also lack major anthropogenic disturbance, and have potential for reoccupation by the species through future reintroduction efforts. Based on the above factors, all unoccupied stream reaches included in the designations for the Alabama pearlshell and southern kidneyshell are essential to their conservation.

Following the identification of occupied and unoccupied stream reaches, the next step was to delineate the probable upstream and downstream extent of each species' distribution. We used USGS 1:100,000 digital stream maps to delineate the boundaries of critical habitat units according to the criteria explained below. The upstream boundary of a unit in a stream is the first perennial, named tributary confluence; a road-crossing bridge; or a permanent barrier to fish passage (such as a dam) above the upstream-most current occurrence record. Many of the Alabama pearlshell survey sites are located near watershed headwaters. In these areas, the upstream boundary of a unit is the point where the stream and its tributaries are no longer perennially flowing streams. The confluence of a

tributary typically marks a significant change in the size of the stream and is a logical and recognizable upstream terminus. When a named tributary was not available, a road-crossing bridge was used to mark the boundary. Likewise, a dam or other barrier to fish passage marks the upstream extent to which mussels may disperse via their fish hosts. The downstream boundary of a unit in a stream is the confluence of a named tributary, the upstream extent of tidal influence, or the upstream extent of an impoundment, below the downstream-most occurrence record. In the unit descriptions, distances between landmarks marking the upstream or downstream extent of a stream segment are given in kilometers (km) and equivalent miles (mi), as measured tracing the course of the stream, not straight-line distance. Distances less than 10 km (6.2 mi) are rounded to the nearest half number, and distances of 10 km (6.2 mi) and greater are rounded to the nearest whole number.

Because mussels are naturally restricted by certain physical conditions within a stream or river reach (i.e., flow, substrate), they may be unevenly distributed within these habitat units. Uncertainty on upstream and downstream distributional limits of some populations may have resulted in small areas of occupied habitat excluded from, or areas of unoccupied habitat included in, the designation. We recognize that both historical and recent collection records upon which we relied are incomplete, and that there may be river segments or small tributaries not included in this designation that harbor small, limited populations of one or more of the eight species considered in this designation, or that others may become suitable in the future. The exclusion of such areas does not diminish their potential individual or cumulative importance to the conservation of these species. However, with proper management, each of the nine critical habitat units are capable of supporting one or more of these mussel species, and will serve as source populations for artificial reintroduction into designated stream units, as well as assisted or natural migration into adjacent undesignated streams within each basin. The habitat areas contained within the units described below constitute our best evaluation of areas needed for the conservation of these species at this time. Critical habitat may be revised for any or all of these species should new information become available.

Using the criteria above, we delineated a total of nine critical habitat units—two units (AP1, AP2) for the Alabama pearlshell, and seven Gulf Coast mussels units (GCM1 through GCM7) for one or more of the other seven mussel species. We depicted the Alabama pearlshell units separately as this species tends to inhabit headwater stream environments and seldom co-occurs with the other seven species, although some critical habitat in the downstream portions of Unit AP2 overlaps with the upstream portions of Unit GCM1 in the Escambia River drainage. The round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe often co-occur within the same stream segments, so most of the GCM critical habitat units are designated for more than one species. Unit GCM2: Point A Lake and Gantt Lake Reservoirs is the only exception, which is designated for the narrow pigtoe only.

When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas because such lands lack physical or biological features for these eight mussel species. The areas designated as critical habitat listed below include only stream channels within the ordinary high-water line and do not do not include manmade structures (such as buildings, aqueducts, runways, dams, roads, and other paved areas) and the land on which they are located, with the exception of the impoundments created by Point A and Gantt Lake dams (impounded water, not the actual dam structures). The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological featues in the adjacent critical habitat.

Units are designated based on sufficient elements of physical or biological features being present to support life-history processes of these eight mussel species. Some units contain all of the identified elements of physical or biological features and support multiple life-history processes. Some segments contain only some elements of the physical or biological features necessary to support each species' particular use of that habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the rule portion. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2011–0050, on our Internet sites *http://www.fws.gov/PanamaCity,* and at the field office responsible for the designation (see **ADDRESSES** above).

Final Critical Habitat Designation

We are designating nine units as critical habitat for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe. The critical habitat areas described below constitute our best assessment at this time of areas that meet the definition of critical habitat. The occupancy and stream length of designated critical habitat units by species is shown in Table 10.

TABLE 10—OCCUPANCY AND STREAM LENGTH OF DESIGNATED CRITICAL HABITAT UNITS BY SPECIES

Unit	Currently occupied?	Total stream length kilometers (miles)
Alabama pearlshell *(Margaritifera marrianae)*		
AP1: Big Flat Creek	Yes	92 (57)
AP2: Burnt Corn Creek, Murder Creek, and Sepulga River	Partially [1]	155 (96)

TABLE 10—OCCUPANCY AND STREAM LENGTH OF DESIGNATED CRITICAL HABITAT UNITS BY SPECIES—Continued

Unit	Currently occupied?	Total stream length kilometers (miles)
Total		247 (153)
Round ebonyshell *(Fusconaia rotulata)*		
GCM1: Lower Escambia River	Yes	558 (347)
Southern sandshell *(Hamiota australis)*		
GCM1: Lower Escambia River	Yes	558 (347)
GCM3: Patsaliga Creek	Yes	149 (92)
GCM4: Upper Escambia River	Yes	137 (85)
GCM5: Yellow River	Yes	247 (153)
GCM6: Choctawhatchee River and Lower Pea River	Yes	897 (557)
GCM7: Upper Pea River	Yes	234 (145)
Total		2,222 (1,379)
Southern kidneyshell *(Ptychobranchus jonesi)*		
GCM1: Lower Escambia River	No	558 (347)
GCM3: Patsaliga Creek	No	149 (92)
GCM4: Upper Escambia River	No	137 (85)
GCM6: Choctawhatchee River and Lower Pea River	Yes	897 (557)
GCM7: Upper Pea River	Yes	234 (145)
Total		1,975 (1,226)
Choctaw bean *(Villosa choctawensis)*		
GCM1: Lower Escambia River	Yes	558 (347)
GCM3: Patsaliga Creek	Yes	149 (92)
GCM4: Upper Escambia River	Yes	137 (85)
GCM5: Yellow River	Yes	247 (153)
GCM6: Choctawhatchee River and Lower Pea River	Yes	897 (557)
GCM7: Upper Pea River	Yes	234 (145)
Total		2,222 (1,397)
Tapered pigtoe *(Fusconaia burkei)*		
GCM6: Choctawhatchee River and Lower Pea River	Yes	897 (557)
GCM7: Upper Pea River	Yes	234 (145)
Total		1,131 (702)
Narrow pigtoe *(Fusconaia escambia)*		
GCM1: Lower Escambia River	Yes	558 (347)
GCM2: Point A Lake and Gantt Lake Reservoirs	Yes	21 (13)
GCM3: Patsaliga Creek	Yes	149 (92)
GCM4: Upper Escambia River	Yes	137 (85)
GCM5: Yellow River	Yes	247 (153)
Total		1,112 (690)
Fuzzy pigtoe *(Pleurobema strodeanum)*		
GCM1: Lower Escambia River	Yes	558 (347)
GCM3: Patsaliga Creek	Yes	149 (92)
GCM4: Upper Escambia River	Yes	137 (85)
GCM5: Yellow River	Yes	247 (153)
GCM6: Choctawhatchee River and Lower Pea River	Yes	897 (557)
GCM7: Upper Pea River	Yes	234 (145)
Total		2,222 (1,379)

Note: Totals may not sum due to rounding.
[1] 17 km (11 mi) of Murder Creek mainstem are unoccupied.

The designated critical habitat includes the creek and river channels within the ordinary high-water line only. For this purpose, we have applied the definition found at 33 CFR 329.11, and consider the ordinary high-water line on nontidal rivers to be the line on the shore established by the fluctuations of water and indicated by physical characteristics, such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

States were granted ownership of lands beneath navigable waters up to the ordinary high-water line upon achieving Statehood (*Pollard* v. *Hagan,* 44 U.S. (3 How.) 212 (1845)). Prior sovereigns or the States may have made grants to private parties that included lands below the ordinary high-water mark of some navigable waters that are included in this rule. Most, if not all, lands beneath the navigable waters included in this final rule are owned by the States of Alabama and Florida. The lands beneath most nonnavigable waters included in this final rule are in private ownership. Riparian lands along the waters are either in private ownership, or are owned by county, State, or Federal entities. Lands under county, State, and Federal ownership consist of managed conservation areas and Department of Defense lands, and are considered to have some level of protection. The approximate length of each habitat unit and land ownership is shown in Table 11.

TABLE 11—CRITICAL HABITAT UNITS, LOCATION, APPROXIMATE STREAM LENGTH, AND OWNERSHIP OF RIPARIAN LANDS

Unit	Location	Total Length km (mi)	Private km (mi)*	Private/ Managed km (mi)*	Managed km (mi)*
AP1	Big Flat Creek, AL	92 (57)	92 (57)	0	0
AP2	Burnt Corn Creek, Murder Creek, and Sepulga River, AL.	155 (96)	155 (96)	0	0
GCM1	Lower Escambia River, AL, FL	558 (347)	482 (299)	18 (11)	59 (36)
GCM2	Point A Lake and Gantt Lake Reservoirs, AL.	21 (13)	21 (13)	0	0
GCM3	Patsaliga Creek, AL	149 (92)	149 (92)	0	0
GCM4	Upper Escambia River, AL	137 (85)	130 (81)	7 (4)	0
GCM5	Yellow River, AL, FL	247 (153)	98 (61)	68 (42)	81 (50)
GCM6	Choctawhatchee River and Lower Pea River, AL, FL.	897 (557)	718 (446)	61 (38)	119 (74)
GCM7	Upper Pea River, AL	234 (145)	228 (142)	0	5 (3)
Overlap between units AP2 and GCM1		−85 (53)	−85 (53)	0	0
Total	.....	2,404 (1,494)	1,987 (1,235)	153 (95)	263 (164)

Note: Totals may not sum due to rounding.

* Ownership is categorized by private ownership on both banks of the river (Private); private on one bank and county, state or federal on the other (Private/Managed); and county, state, or federal ownership on both banks (Managed).

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for each species, below.

Unit AP1: Big Flat Creek Drainage, Alabama

Unit AP1 encompasses 92 km (57 mi) of the Big Flat Creek drainage, in Monroe and Wilcox Counties, AL. The unit is within the Mobile River basin. It includes the mainstem of Big Flat Creek from State Route 41 upstream 56 km (35 mi), Monroe County, AL; Flat Creek from its confluence with Big Flat Creek upstream 20 km (12 mi), Monroe County, AL; and Dailey Creek from its confluence with Flat Creek upstream 17 km (11 mi), Wilcox County, AL.

Unit AP1 is within the geographical area occupied at the time of listing (2012) for the Alabama pearlshell. Based on collection records, the species was last collected in the Big Flat Creek system in 1995, when Shelton (1995, p. 3 unpub. report) documented a fresh dead individual. Although it is likely that the Alabama pearlshell has always been rare in Big Flat Creek, the unit currently supports healthy populations of several other native mussel species, indicating the presence of essential physical or biological features, and contains PCEs 1, 2, 3, and 4. A diverse fish fauna, including potential fish host(s) for the Alabama pearlshell, are known from the Big Flat Creek drainage, indicating the potential presence of PCE 5.

Threats to the Alabama pearlshell and its habitat may require special management of the physical or biological features including maintaining natural stream flows and protecting water quality from excessive point- and non-point-source pollution. For example, runoff from agricultural and industrial sites can alter water quality through added nutrients and sediment. Runoff from unpaved roads can also add sediments, and poorly designed road culverts can degrade habitats and limit distribution of the species. Some culverts can isolate pearlshell populations by acting as a barrier for dispersion and movement of host fish(es).

Unit AP2: Burnt Corn Creek, Murder Creek, and Sepulga River Drainages, Alabama

Unit AP2 encompasses 155 km (96 mi) of the Burnt Corn Creek, Murder Creek, and Sepulga River drainages within the Escambia River drainage in Escambia and Conecuh Counties, AL. It includes the mainstem of Burnt Corn Creek from its confluence with Murder Creek upstream 66 km (41 mi), Conecuh County, AL; the mainstem of Murder Creek from its confluence with Jordan Creek upstream 17 km (11 mi) to the confluence of Otter Creek, Conecuh County, AL; Jordan Creek from its confluence with Murder Creek upstream 12 km (7 mi), Conecuh County, AL; Otter Creek from its confluence with Murder Creek upstream 9 km (5.5 mi), Conecuh County, AL; Hunter Creek from its confluence with Murder Creek upstream 4.4 km (2.7 mi) to the NOLF Evergreen northern boundary, Conecuh County, AL; Hunter Creek from the NOLF Evergreen southern boundary upstream 3.0 km (1.9 mi), Conecuh County, AL; Sandy Creek from County

Road 29 upstream 5 km (3.5 mi) to Hagood Road; two unnamed tributaries to Sandy Creek—one from its confluence with Sandy Creek upstream 8.5 km (5.0 mi) to Hagood Road, and the other from its confluence with the previous unnamed tributary 2.5 km (1.5 mi) upstream to Hagood Road, Conecuh County, AL; Little Cedar Creek from County Road 6 upstream 8 km (5 mi), Conecuh County, AL; Amos Mill Creek from its confluence with the Sepulga River upstream 12 km (8 mi), Escambia and Conecuh Counties, AL; Polly Creek from its confluence with Amos Mill Creek upstream 3 km (2 mi), Conecuh County, AL; and Bottle Creek from its confluence with the Sepulga River upstream 5.5 km (3.5 mi) to County Road 42, Conecuh County, AL.

Unit AP2 is mostly within the geographical area occupied at the time of listing (2012) for the Alabama pearlshell. The Alabama pearlshell currently occurs in Jordan, Hunter, Otter, Sandy, Little Cedar, Bottle, and Amos Mill creek drainages. Although it historically occurred in the mainstem of Murder Creek, it has not been collected there since 1991. Therefore, this short reach of Murder Creek is considered unoccupied by the Alabama pearlshell, but essential to the conservation of the species. This unoccupied reach retains the physical or biological features of a natural stream channel and supports other native mussel species. It has potential for reoccupation by the pearlshell, particularly if threats can be identified and mitigated.

The unit currently supports healthy populations of several other native mussel species, indicating the elements of essential physical or biological features, and contains PCEs 1, 2, 3, and 4. In addition, other mussel species, requiring similar PCEs, co-occur with the pearlshell. A diverse fish fauna, including potential fish host(s) for the Alabama pearlshell, are known from these drainages, indicating the potential presence of PCE 5.

Threats to the Alabama pearlshell and its habitat that may require special management of the physical or biological featues include alteration and maintenance of natural stream flows (including the construction of impoundments), and protecting water quality from excessive point- and non-point-source pollution.

Unit GCM1: Lower Escambia River Drainage, Florida and Alabama

Unit GCM1 encompasses 558 km (347 mi) of the lower Escambia River mainstem and 12 tributary streams in Escambia and Santa Rosa Counties, FL, and Escambia, Covington, Conecuh, and Butler Counties, AL. The unit consists of the main channel of the Escambia-Conecuh River from the confluence of Spanish Mill Creek, Escambia and Santa Rosa counties, FL, upstream 204 km (127 mi) to the Point A Lake dam, Covington County, AL; Murder Creek from its confluence with the Conecuh River, Escambia County, AL, upstream 62 km (38 mi) to the confluence of Cane Creek, Conecuh County, AL; Burnt Corn Creek from its confluence with Murder Creek, Escambia County, AL, upstream 59 km (37 mi) to County Road 20, Conecuh County, AL; Jordan Creek from its confluence with Murder Creek, upstream 5.5 km (3.5 mi) to Interstate 65, Conecuh County, AL; Mill Creek from its confluence with Murder Creek upstream 2.5 km (1.5 mi) to the confluence of Sandy Creek, Conecuh County, AL; Sandy Creek from its confluence with Mill Creek upstream 5.5 km (3.5 mi) to County Road 29, Conecuh County, AL; Sepulga River from its confluence with the Conecuh River upstream 69 km (43 mi) to the confluence of Persimmon Creek, Conecuh County, AL; Bottle Creek from its confluence with the Sepulga River upstream 5.5 km (3.5 mi) to County Road 42, Conecuh County, AL; Persimmon Creek from its confluence with the Sepulga River, Conecuh County, upstream 36 km (22 mi) to the confluence of Mashy Creek, Butler County, AL; Panther Creek from its confluence with Persimmon Creek upstream 11 km (7 mi) to State Route 106, Butler County, AL; Pigeon Creek from its confluence with the Sepulga River, Conecuh and Covington Counties, upstream 89 km (55 mi) to the confluence of Three Run Creek, Butler County, AL; and Three Run Creek from its confluence with Pigeon Creek upstream 9 km (5.5 mi) to the confluence of Spring Creek, Butler County, AL.

Unit GCM1 is within the geographical area occupied at the time of listing (2012) for the round ebonyshell, southern kidneyshell, Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe. The southern kidneyshell is not currently known to occur in the unit; however, this portion of the Escambia River system is within the species' historical range, and we consider it essential to the southern kidneyshell's conservation due to the need to re-establish the species within other portions of its historical range in order to reduce threats from stochastic events. The unit currently supports populations of round ebonyshell, Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe, indicating the presence of essential physical or biological features, and contains PCEs 1, 2, 3, and 4. In addition, other mussel species, requiring similar PCEs, co-occur with these five species. A diverse fish fauna, including potential fish host(s) for the fuzzy pigtoe, are known from the Escambia River drainage, indicating the potential presence of PCE 5.

Threats to the five species and their habitat that may require special management of the physical or biological features include the potential of significant changes in the existing flow regime and water quality due to two upstream impoundments. As discussed in Summary of Factors Affecting the Species, mollusk declines downstream of dams are associated with changes and fluctuation in flow regime, scouring and erosion, reduced dissolved oxygen levels and altered water temperatures, and changes in resident fish assemblages. These alterations can cause mussel declines for many miles downstream of the dam.

Unit GCM2: Point A Lake and Gantt Lake Reservoirs, Alabama

Unit GCM2 encompasses 21 km (13 mi) of the Point A Lake and Gantt Lake reservoir system in Covington County, AL. Both lakes are impoundments on the Conecuh River main channel in the Escambia River drainage. The unit extends from Point A Lake dam, Covington County upstream 21 km (13 mi) to the Covington-Crenshaw County line in Alabama.

Unit GCM2 is within the geographical area occupied at the time of listing (2012) for the narrow pigtoe. As mentioned in discussion of essential physical or biological features for the narrow pigtoe, we attribute its occurrence in these two impoundments to the small size of the reservoirs and to the operational regime of the dams. This allows for water movement through the system, and prevents silt accumulation in some areas. The largest narrow pigtoe population occurs in the middle reach of Gantt Lake, where the reservoir narrows and becomes somewhat riverine. Although the natural state of the river's hydrological flow regime is modified, it does retain the presence of the physical or biological features necessary to maintain the benthic habitats where the species are found. The persistence of the narrow pigtoe within these reservoirs indicates the presence of an appropriate fish host. Although its fish host(s) is unknown, other mussels of the genus *Fusconaia* are known to use cyprinid minnows, fish that occupy a variety of habitats including large, flowing rivers, and

lakes and reservoirs (Mettee *et al.* 1996, p. 128). The unit currently supports narrow pigtoe populations, indicating the elements of essential physical or biological features, and contains PCEs 1, 3, 4, and 5. We consider the habitat in this unit essential to the conservation of the narrow pigtoe as it possesses the largest known population. The fuzzy pigtoe is known historically from this stretch of the Conecuh River (one specimen was collected in 1915). However, the collection was made prior to construction of the reservoirs in 1923, and it is not presently known to occur in this now-impounded section of the river.

Threats to the narrow pigtoe and its habitat that may require special management of the physical or biological features include the potential of significant changes in water levels due to periodic drawdowns of the reservoirs for maintenance to the dams. Within the two reservoirs, mussels occur in shallow areas near the shore, where they are susceptible to exposure when water levels are lowered. A drawdown of Point A Lake in 2005, and Gantt Lake in 2006, exposed and killed a substantial number of mussels (Johnson 2006 in litt.). During the Gantt drawdown, 142 individuals of narrow pigtoe were relocated after being stranded in dewatered areas near the shoreline (Garner 2009 pers. comm.; Pursifull 2006, pers. obs.).

Unit GCM3: Patsaliga Creek Drainage, Alabama

Unit GCM3 encompasses 149 km (92 mi) of Patsaliga Creek and two tributary streams in Covington, Crenshaw, and Pike Counties, AL, within the Escambia River basin. The unit consists of the Patsaliga Creek mainstem from its confluence with Point A Lake at County Road 59, Covington County, AL, upstream 108 km (67 mi) to Crenshaw County Road 66-Pike County Road 1 (the creek is the county boundary), AL; Little Patsaliga Creek from its confluence with Patsaliga Creek upstream 28 km (17 mi) to Mary Daniel Road, Crenshaw County, AL; and Olustee Creek from its confluence with Patsaliga Creek upstream 12 km (8 mi) to County Road 5, Pike County, AL.

Unit GCM3 is within the geographical area occupied at the time of listing (2012) for the Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe. The southern kidneyshell is not currently known to occur in the unit; however, this portion of the Patsaliga Creek system is within the species' historic range. We consider it essential to the conservation of the southern kidneyshell due to the need to re-establish the species within other portions of its historic range in order to reduce threats from stochastic events. The unit does currently support populations of Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe, indicating the presence of essential physical or biological features, and contains PCEs 1, 2, 3, and 4. In addition, other mussel species, requiring similar PCEs, co-occur with these four species. A diverse fish fauna, including a potential fish host for the fuzzy pigtoe, are known from the Patsaliga Creek drainage, indicating the potential presence of PCE 5.

Prior to construction of the Point A Lake and Gantt Lake dams in 1923, Patsaliga Creek drained directly to the Conecuh River main channel. It now empties into Point A Lake and is effectively isolated from the main channel by the dams. The dams are barriers to upstream fish movement, particularly to anadromous fishes. Therefore, a potential threat that may require special management of the physical or biological features includes the absence of fish hosts.

Unit GCM4: Upper Escambia River Drainage, Alabama

Unit GCM4 encompasses 137 km (85 mi) of the Conecuh River mainstem and two tributary streams in Covington, Crenshaw, Pike, and Bullock Counties, AL, within the Escambia River drainage. The unit consists of the Conecuh River from its confluence with Gantt Lake reservoir at the Covington-Crenshaw County line upstream 126 km (78 mi) to County Road 8, Bullock County, AL; Beeman Creek from its confluence with the Conecuh River upstream 6.5 km (4 mi) to the confluence of Mill Creek, Pike County, AL; and Mill Creek from its confluence with Beeman Creek, upstream 4.5 km (3 mi) to County Road 13, Pike County, AL.

Unit GCM4 is is within the geographical area occupied at the time of listing (2012) Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe. The southern kidneyshell is not currently known to occur in the unit; however, this portion of the Conecuh River is within the species' historic range, and we consider it to be essential to the conservation of the southern kidneyshell due to the need to re-establish the species within other portions of its historic range in order to reduce threats from stochastic events. The unit does currently support populations of Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe, indicating the presence of essential physical or biological features, and contains PCEs 1, 2, 3, and 4. In addition, other mussel species requiring similar PCEs co-occur with these four species. A diverse fish fauna, including a potential fish host for the fuzzy pigtoe, are known from the upper Escambia River drainage, indicating the potential presence of PCE 5.

The Point A Lake and Gantt Lake dams on the Conecuh River mainstem are barriers to upstream fish movement, particularly to anadromous fishes. Therefore, a potential threat that may require special management of the physical or biological features includes the absence of fish hosts.

Unit GCM5: Yellow River Drainage, Florida and Alabama

Unit GCM5 encompasses 247 km (153 mi) of the Yellow River mainstem, the Shoal River mainstem, and three tributary streams in Santa Rosa, Okaloosa, and Walton Counties, FL, and Covington County, AL. The unit consists of the Yellow River from the confluence of Weaver River (a tributary located 0.9 km (0.6 mi), downstream of State Route 87), Santa Rosa County, FL, upstream 157 km (97 mi) to County Road 42, Covington County, AL; the Shoal River from its confluence with the Yellow River, Okaloosa County, FL, upstream 51 km (32 mi) to the confluence of Mossy Head Branch, Walton County, FL; Pond Creek from its confluence with Shoal River, Okaloosa County, FL, upstream 24 km (15 mi) to the confluence of Fleming Creek, Walton County, FL; and Five Runs Creek from its confluence with the Yellow River upstream 15 km (9.5 mi) to County Road 31, Covington County, AL.

Unit GCM5 is within the geographical area occupied at the time of listing (2012) for the Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe. The southern kidneyshell was known from the Yellow River drainage; however, its occurrence in the basin is based on the collection of one specimen in 1919 from Hollis Creek in Alabama. We believe this single, historical record is not sufficient to consider this unit as essential to the conservation of the southern kidneyshell. Therefore, we are not designating Unit GCM5 as critical habitat for the southern kidneyshell at this time. The unit does currently support populations of Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe, indicating the presence of essential physical or biological features, and contains PCEs 1, 2, 3, and 4. In addition, other mussel species, requiring similar PCEs, co-occur with these four species. A diverse fish fauna are known from the Yellow River

drainage, indicating the potential presence of PCE 5.

Unit GCM6: Choctawhatchee River and Lower Pea River Drainages, Florida and Alabama

Unit GCM6 encompasses 897 km (557 mi) of the Choctawhatchee River mainstem, the lower Pea River mainstem, and 29 tributary streams in Walton, Washington, Bay, Holmes, and Jackson Counties, FL, and Geneva, Coffee, Dale, Houston, Henry, Pike, and Barbour Counties, AL. The unit consists of the Choctawhatchee River from the confluence of Pine Log Creek, Walton County, FL, upstream 200 km (125 mi) to the point the river splits into the West Fork Choctawhatchee and East Fork Choctawhatchee rivers, Barbour County, AL; Pine Log Creek from its confluence with the Choctawhatchee River, Walton County, upstream 19 km (12 mi) to the confluence of Ditch Branch, Washington and Bay Counties, FL; an unnamed channel forming Cowford Island from its downstream confluence with the Choctawhatchee River upstream 3 km (2 mi) to its upstream confluence with the river, Washington County, FL; Crews Lake from its western terminus 1.5 km (1 mi) to its eastern terminus, Washington County, FL (Crews Lake is a relic channel southwest of Cowford Island, and is disconnected from the Cowford Island channel, except during high flows); Holmes Creek from its confluence with the Choctawhatchee River, Washington County, FL, upstream 98 km (61 mi) to County Road 4, Geneva County, AL; Alligator Creek from its confluence with Holmes Creek upstream 6.5 km (4 mi) to County Road 166, Washington County, FL; Bruce Creek from its confluence with the Choctawhatchee River upstream 25 km (16 mi) to the confluence of an unnamed tributary, Walton County, FL; Sandy Creek from its confluence with the Choctawhatchee River, Walton County, FL, upstream 30 km (18 mi) to the confluence of West Sandy Creek, Holmes and Walton County, FL; Blue Creek from its confluence with Sandy Creek, upstream 7 km (4.5 mi) to the confluence of Goose Branch, Holmes County, FL; West Sandy Creek from its confluence with Sandy Creek, upstream 5.5 km (3.5 mi) to the confluence of an unnamed tributary, Walton County, FL; Wrights Creek from its confluence with the Choctawhatchee River, Holmes County, FL, upstream 43 km (27 mi) to County Road 4, Geneva County, AL; Tenmile Creek from its confluence with Wrights Creek upstream 6 km (3.5 mi) to the confluence of Rice Machine Branch, Holmes County, FL; West Pittman Creek from its confluence with the Choctawhatchee River upstream 6.5 km (4 mi) to Fowler Branch, Holmes County, FL; East Pittman Creek from its confluence with the Choctawhatchee River upstream 4.5 km (3 mi) to County Road 179, Holmes County, FL; Parrot Creek from its confluence with the Choctawhatchee River upstream 6 km (4 mi) to Tommy Lane, Holmes County, FL; the Pea River from its confluence with the Choctawhatchee River, Geneva County, AL, upstream 91 km (57 mi) to the Elba Dam, Coffee County, AL; Limestone Creek from its confluence with the Pea River upstream 8.5 km (5 mi) to Woods Road, Walton County, FL; Flat Creek from the Pea River upstream 17 km (10 mi) to the confluence of Panther Creek, Geneva County, AL; Eightmile Creek from its confluence with Flat Creek, Geneva County, AL, upstream 15 km (9 mi) to the confluence of Dry Branch (first tributary upstream of County Road 181), Walton County, FL; Corner Creek from its confluence with Eightmile Creek upstream 5 km (3 mi) to State Route 54, Geneva County, AL; Natural Bridge Creek from its confluence with Eightmile Creek Geneva County, AL, upstream, 4 km (2.5 mi) to the Covington-Geneva County line, AL; Double Bridges Creek from its confluence with the Choctawhatchee River, Geneva County, AL, upstream 46 km (29 mi) to the confluence of Blanket Creek, Coffee County, AL; Claybank Creek from its confluence with the Choctawhatchee River, Geneva County, AL, upstream 22 km (14 mi) to the Fort Rucker military reservation southern boundary, Dale County, AL; Claybank Creek from the Fort Rucker military reservation northern boundary, upstream 6 km (4 mi) to County Road 36, Dale County, AL; Steep Head Creek from the Fort Rucker military reservation western boundary, upstream 4 km (2.5 mi) to County Road 156, Coffee County, AL; Hurricane Creek from its confluence with the Choctawhatchee River upstream 14 km (8.5 mi) to State Route 52, Geneva County, AL; Little Choctawhatchee River from its confluence with the Choctawhatchee River, Dale and Houston Counties upstream 20 km (13 mi) to the confluence of Newton Creek, Houston County, AL; Panther Creek from its confluence with the Little Choctawhatchee River, upstream 4.5 km (2.5 mi) to the confluence of Gilley Mill Branch, Houston County, AL; Bear Creek from its confluence with the Little Choctawhatchee River, upstream 5.5 km (3.5 mi) to County Road 40 (Fortner Street), Houston County, AL; West Fork Choctawhatchee River from its confluence with the Choctawhatchee River, Dale County, AL, upstream 54 km (33 mi) to the fork of Paul's Creek and Lindsey Creek, Barbour County, AL; Judy Creek from its confluence with West Fork Choctawhatchee River upstream 17 km (11 mi) to County Road 13, Dale County, AL; Sikes Creek from its confluence with West Fork Choctawhatchee River, Dale County, AL, upstream 8.5 km (5.5 mi) to State Route 10, Barbour County, AL; Paul's Creek from its confluence with West Fork Choctawhatchee River upstream 7 km (4.5 mi) to one mile upstream of County Road 20, Barbour County, AL; Lindsey Creek from its confluence with West Fork Choctawhatchee River upstream 14 km (8.5 mi) to the confluence of an unnamed tributary, Barbour County, AL; an unnamed tributary to Lindsey Creek from its confluence with Lindsey Creek upstream 2.5 km (1.5 mi) to 1.0 mile upstream of County Road 53, Barbour County, AL; and East Fork Choctawhatchee River from its confluence with the Choctawhatchee River, Dale County, AL, upstream 71 km (44 mi) to County Road 71, Barbour County, AL.

Unit GCM6 is within the geographical area occupied at the time of listing (2012) for the southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe. The unit currently supports populations of the five species, indicating the elements of essential physical or biological features, and contains PCEs 1, 2, 3, and 4. In addition, other mussel species, requiring similar PCEs, co-occur with these five species. A diverse fish fauna is known from the Choctawhatchee River, including a potential fish host for the fuzzy pigtoe and tapered pigtoe, indicating the potential presence of PCE 5.

Not included in this unit are two oxbow lakes now disconnected from the Choctawhatchee River main channel in Washington County, Florida. Horseshoe Lake has a record of southern kidneyshell from 1932, and Crawford Lake has records of Choctaw bean and tapered pigtoe from 1934. It is possible these oxbow lakes had some connection to the main channel when the collections were made over 75 years ago. The three species are not currently known to occur in Horseshoe or Crawford lakes, and we do not consider them essential to the conservation of the southern kidneyshell, Choctaw bean, or tapered pigtoe.

Threats to the five species and their habitat that may require special management of the physical or biological features include the potential of significant changes in the existing

flow regime and water quality due to the Elba Dam on the Pea River mainstem. As discussed in Summary of Factors Affecting the Species, mollusk declines downstream of dams are associated with changes and fluctuation in flow regime, scouring and erosion, reduced dissolved oxygen levels and altered water temperatures, and changes in resident fish assemblages. These alterations can cause mussel declines for many miles downstream of the dam.

Unit GCM7: Upper Pea River Drainage, Alabama

Unit GCM7 encompasses 234 km (145 mi) of the upper Pea River mainstem and six tributary streams in Coffee, Dale, Pike, Barbour, and Bullock Counties, AL. This unit is within the Choctawhatchee River basin and includes the stream segments upstream of the Elba Dam. The unit consists of the Pea River from the Elba Dam, Coffee County, upstream 123 km (76 mi) to State Route 239, Bullock and Barbour Counties, AL; Whitewater Creek from its confluence with the Pea River, Coffee County upstream 45 km (28 mi) to the confluence of Walnut Creek, Pike County, AL; Walnut Creek from its confluence with Whitewater Creek upstream 14 km (9 mi) to County Road 26, Pike County, AL; Big Creek (Coffee County) from its confluence with Whitewater Creek, Coffee County, upstream 30 km (18 mi) to the confluence of Smart Branch, Pike County, AL; Big Creek (Barbour County) from its confluence with the Pea River upstream 10 km (6 mi) to the confluence of Sand Creek, Barbour County, AL; Pea Creek from its confluence with the Pea River upstream 6 km (4 mi) to the confluence of Hurricane Creek, Barbour County, AL; and Big Sandy Creek from its confluence with the Pea River upstream 6.5 km (4 mi) to County Road 14, Bullock County, AL.

Unit GCM7 is within the geographical area occupied at the time of listing (2012) for the southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe. The unit currently supports populations of the five species, indicating the elements of essential physical or biological features, and contains PCEs 1, 2, 3, and 4. In addition, other mussel species, requiring similar PCEs, co-occur with these five species. A diverse fish fauna is known from the upper Pea River, including potential fish host(s) for the fuzzy pigtoe and tapered pigtoe, indicating the potential presence of PCE 5.

The Elba Dam on the Pea River mainstem is a barrier to upstream fish movement, particularly to anadromous fishes. Therefore, a potential threat that may require special management of the physical or biological feature includes the absence of potential host fishes.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of designated critical habitat.

Decisions by the 5th and 9th Circuit Courts of Appeal have invalidated our regulatory definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service,* 245 F.3d 434, 442 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, or are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action;

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction;

(3) Are economically and technologically feasible; and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, or fuzzy pigtoe. As discussed above, the role of critical habitat is to support life-history needs and provide for the conservation of these species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore should result in consultation for these eight mussel species include, but are not limited to:

(1) Actions that would significantly alter channel geomorphology. Such activities could include, but are not limited to, channelization, impoundment, road and bridge construction, mining, dredging, desnagging, and destruction of riparian vegetation. These activities may lead to changes in water flows and levels that would degrade or eliminate the mussels or their fish host and/or their habitats. These actions can also lead to increased sedimentation and degradation in water quality to levels that are beyond the tolerances of the mussels or their fish host.

(2) Actions that would significantly alter the existing flow regime. Such activities could include, but are not limited to impoundment, water diversion, water withdrawal, water draw-down, and hydropower generation. These activities could eliminate or reduce the habitat necessary for growth and reproduction of these mussels.

(3) Actions that would significantly alter water chemistry, quality, or temperature. Such activities could include, but are not limited to, release of chemicals, biological pollutants, or heated effluents into the surface water or connected groundwater at a point source or by dispersed release (non-point source). These activities could alter water conditions to levels that are beyond the tolerances of the mussels or their fish host and result in direct or cumulative adverse affects to these individuals and their life cycles.

(4) Actions that would significantly alter stream bed material composition and quality by increasing sediment deposition or filamentous algal growth. Such activities could include, but are not limited to, construction projects, livestock grazing, timber harvest, and other watershed and floodplain disturbances that release sediments or nutrients into the water. These activities could eliminate or reduce habitats necessary for the growth and reproduction of these mussels by causing excessive sedimentation and burial of the species or their habitats, or nutrification leading to excessive filamentous algal growth. Excessive filamentous algal growth can cause reduced nighttime dissolved oxygen levels through respiration, and prevent juvenile mussels from settling into stream sediments.

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resources management plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

- An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;
- A statement of goals and priorities;
- A detailed description of management actions to be implemented to provide for these ecological needs; and
- A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the proposed critical habitat designation for southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe to determine if they meet the criteria for exemption from critical habitat under section 4(a)(3) of the Act. The following areas are Department of Defense lands with completed, Service-approved INRMPs within the proposed critical habitat designation.

Fort Rucker

The U.S. Army-operated Fort Rucker Aviation Center, located in Daleville, Alabama, owns lands that include portions of the proposed critical habitat designation (specifically unit GCM6, Choctawhatchee River and Lower Pea River Drainage). Portions of Claybank and Steep Head creeks are on lands within the Fort Rucker military reservation. Fort Rucker has completed an INRMP (US Army 2009) that guides conservation activities on the installation through 2014. The INRMP specifically addresses maintaining and improving water quality through reduction in sedimentation and erosion control, land management practices, and improved treatment facilities. (US Army 2009, pp. 82–83, 90, 128–129). In addition, the INRMP will be updated to incorporate the southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the Fort Rucker INRMP and that conservation efforts identified in the INRMP will provide a benefit to the species occurring in habitats within or downstream of the Fort Rucker military reservation. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3)

of the Act. We are not including approximately 25 km (16 mi) of stream habitat in this critical habitat designation because of this exemption.

NAS Whiting Field Complex

The U.S. Navy owns lands that include portions of the proposed critical habitat designation in unit AP2. A segment of Hunter Creek is on lands within the boundaries of Naval Air Station (NAS) Whiting Field's Navy Outlying Field (NOLF) Evergreen located in Conecuh County, Alabama. The NAS Whiting Field Complex has completed an INRMP (Department of the Navy 2006) that guides conservation activities on the installation through 2016. The INRMP specifically addresses improving water quality through vegetative buffers, stormwater and pesticide management, erosion control, and land management practices (Department of the Navy 2006, pp. 5.4–5.6, 5.15–5.26). In addition, the INRMP will be updated to incorporate the Alabama pearlshell.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the NAS Whiting Field INRMP and that conservation efforts identified in the INRMP will provide a benefit to the Alabama pearlshell occurring in habitats within or adjacent to NOLF Evergreen. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3) of the Act. We are not including approximately 0.4 km (0.25 mi) of stream habitat in this final critical habitat designation because of this exemption.

Other Department of Defense Lands

Eglin Air Force Base (AFB), located in Niceville, Florida, owns the lands adjacent to the critical habitat designation (specifically unit GCM5, Yellow River Drainage). The lower portions of the Shoal and Yellow rivers form the northwestern boundary of the military reservation. However, no portions of stream or river channels designated as critical habitat occur within the boundary of the military reservation, and therefore Eglin AFB lands are not exempted. These reaches are also currently designated critical habitat for the threatened Gulf sturgeon (*Acipenser oxyrinchus desotoi*) (68 FR 13370, March 19, 2033).

Exclusions

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history, is clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, the Secretary may exclude an area from designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise his discretion to exclude the area only if such exclusion would not result in the extinction of the species.

Exclusions Based on Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared a draft economic analysis (DEA) of the proposed critical habitat designation and related factors (77 FR 18173). The draft analysis, dated March 5, 2012, was made available for public review March 27, 2012, through April 26, 2012 (77 FR 18173). Following the close of the comment period, a final analysis (FEA) (dated May 24, 2012) of the potential economic effects of the designation was developed taking into consideration the public comments and any new information (Industrial Economics 2012).

The intent of the economic analysis is to quantify the economic impacts of all potential conservation efforts for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe; some of these costs will likely be incurred regardless of whether we designate critical habitat (baseline). The economic impact of the critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing and other Federal, State, and local regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat above and beyond the baseline costs; these are the costs we consider in the final designation of critical habitat. The analysis looks at baseline impacts incurred from the listing of the species, and forecasts both baseline and incremental impacts likely to occur with the designation of critical habitat. For a further description of analysis methods, see the ''Framework for the Analysis'' section of the FEA.

The FEA also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on government agencies, private businesses, and individuals. The FEA measures lost economic efficiency associated with residential and commercial development and public projects and activities, such as economic impacts on water management and transportation projects, Federal lands, small entities, and the energy industry. Decision-makers can use this information to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, the FEA looks at costs that will be incurred once listed, and considers those costs that may occur in the 20 years following the designation of critical habitat, which was determined to be the appropriate period for analysis because limited planning information was available for most activities to forecast activity levels for projects beyond a 20-year timeframe. The final economic analysis quantifies economic impacts of conservation efforts for these eight species associated with the following categories of activity: (1)

Impoundments, dams, and diversions; (2) dredging, channelization, and instream mining; (3) transportation and utilities; (4) residential and commercial development; (5) timber management, agriculture, and grazing; and (6) oil wells/drilling.

The FEA states that the present value of total incremental cost of critical habitat designation is estimated to be $1.70 million over the analysis timeframe (2012 to 2031), applying a 7 percent discount rate or $147,000 annually. All of these impacts stem from the administrative cost of addressing adverse modification of critical habitat during section 7 consultations. Because the region is primarily rural, with little planned economic activity, the Service and contacted stakeholders do not anticipate that designation of critical habitat for these mussels will have substantial impact on economic activity. The majority of the incremental impacts (67 percent) are related to road and bridge construction and maintenance projects. Specifically, over the 30-year timeframe of the FEA, the Alabama Department of Transportation (ADOT) and the Florida Department of Transportation (FDOT) expect 208 road and bridge maintenance and resurfacing projects will occur in the region, and ADOT and FDOT will, therefore, conduct section 7 consultations with the Service when roadways cross streams designated as critical habitat. In Alabama, data were not available to determine the number of road crossings in critical habitat, and this likely results in an overestimate of impacts to transportation projects in Alabama.

Our economic analysis did not identify any disproportionate costs that are likely to result from the designation. Consequently, the Secretary is not exerting his discretion to exclude any areas from this designation of critical habitat for these eight species based on economic impacts.

A copy of the final economic analysis with supporting documents may be obtained by contacting the Panama City Field Office (see **ADDRESSES**) or by downloading from the Internet at *http://www.regulations.gov*.

Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. In preparing this final rule, we have exempted from the designation of critical habitat those Department of Defense lands with completed INRMPs determined to provide a benefit to the Alabama pearlshell, southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe. We have also determined that the remaining lands within the designation of critical habitat for the species are not owned or managed by the Department of Defense, and, therefore, we anticipate no impact on national security. Consequently, the Secretary is not exercising his discretion to exclude any areas from this final designation based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors, including whether the landowners have developed any Habitat Conservation Plans (HCPs) or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues, and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that there are currently no HCPs or other management plans for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, or fuzzy pigtoe, and the final designation does not include any tribal lands or trust resources. We anticipate no impact on tribal lands, partnerships, or HCPs from this critical habitat designation. Accordingly, the Secretary is not exercising his discretion to exclude any areas from this final designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review—Executive Order 12866 and 13563

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule, as well as the types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

To determine if the designation of critical habitat for the eight mussel species will affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (e.g., governments (counties), development, and dredging). We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. However, the SBREFA does not explicitly define ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the number of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat only affects activities authorized, funded, or carried out by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they authorize, fund, or carry out that may affect the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, or fuzzy pigtoe. Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities (see *Application of the ''Adverse Modification'' Standard* section).

In our final economic analysis of the critical habitat designation, we evaluated the potential economic effects on small entities resulting from conservation actions related to the listing of the eight mussels and the designation of critical habitat. The analysis is based on the estimated impacts associated with the rulemaking as described in Chapters 2 through 4 and Appendix A of the analysis and evaluates the potential for economic impacts related to: (1) Impoundments, dams, and diversions; (2) dredging, channelization, and in-stream mining; (3) transportation and utilities; (4) residential and commercial development; (5) timber management, agriculture, and grazing; and (6) oil wells/drilling.

According to the final economic analysis, impacts on small entities due to this rule are expected to be modest because the incremental costs of the rule are estimated to be administrative in nature. The final economic analysis evaluated the incremental impacts of designating critical habitat for these eight mussels over the next 20 years (2012–2031), which was determined to be the appropriate period for analysis because limited planning information is available for most activities to forecast activity levels for projects beyond a 20-year timeframe. This analysis estimates that 7 small governments, 20 small development-related entitities, and 4 small dredging-related entities are likely to incur administrative costs as third parties associated with section 7 consultation. Applying a 7 percent discount rate, incremental impacts associated with the designation are estimated to represent less than 1 percent of the annual revenues each small entity.

In summary, we considered whether this designation would result in a significant economic effect on a substantial number of small entities. Based on the above reasoning and currently available information, we concluded that this rule will not result in a significant economic impact on a substantial number of small entities. Therefore, we are certifying that the designation of critical habitat for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 (E.O. 13211; ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'') on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration. The economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with the 8 mussels conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only

regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because it would not produce a Federal mandate of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. Small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. The final economic analysis concludes incremental impacts may occur due to administrative costs of section 7 consultations for activities related to impoundments and dams, development, and dredging projects; however, these are not expected to significantly affect small government entities. Consequently, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

The majority of the designation occurs in navigable waterways whose stream bottoms are owned by the States of Alabama and Florida. Impacts of this designation could occur on non-Federal riparian lands adjacent to the designated streams where there is Federal involvement (e.g., Federal funding or permitting) subject to section 7 of the Act, or where a decision on a proposed action on federally owned land could affect economic activity on adjoining non-Federal land. However, in general, we believe that the takings implications associated with this critical habitat designation will be insignificant. The takings implications assessment concludes that this designation of critical habitat for these eight mussels does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with Executive Order 13132 (Federalism), this rule does not have significant Federalism effects. A federalism impact summary statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this critical habitat designation with appropriate State resource agencies in Alabama and Florida. We received comments from Florida Fish and Wildlife Conservation Commission and have addressed them in the Summary of Comments and Recommendations section of this rule. The designation of critical habitat in areas currently occupied by the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the physical or biological features essential to the conservation of the species are more clearly defined, and the elements of the features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) will be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. This final rule uses standard property descriptions and identifies the elements of physical or biological features essential to the conservation of the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe within the designated areas to assist the public in understanding the habitat needs of these species.

Paperwork Reduction Act of 1995

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

It is our position that, outside the jurisdiction of the U.S. Court of Appeals

for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

We determined that there are no Tribal lands occupied at the time of listing (2012) that contain the features essential for the conservation, and no unoccupied Tribal lands that are essential for the conservation, of the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe. Therefore, none of the designated critical habitat for these species is on Tribal lands.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Panama City Field Office (see **ADDRESSES**).

Authors

The primary authors of this package are the staff members of the Panama City Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries for ''Bean, Choctaw,'' ''Ebonyshell, round,'' ''Kidneyshell, southern,'' ''Pearlshell, Alabama'', ''Pigtoe, fuzzy'', ''Pigtoe, narrow'', ''Pigtoe, tapered'', and ''Sandshell, southern'' in alphabetical order under ''CLAMS'' to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
CLAMS							
*	*	*	*	*	*	*	
Bean, Choctaw	*Villosa choctawensis*	U.S.A. (AL, FL)	NA	E	808	17.95(f)	NA
*	*	*	*	*	*	*	
Ebonyshell, round	*Fusconaia rotulata*	U.S.A. (AL, FL)	NA	E	808	17.95(f)	NA
*	*	*	*	*	*	*	
Kidneyshell, southern.	*Ptychobranchus jonesi.*	U.S.A. (AL, FL)	NA	E	808	17.95(f)	NA
*	*	*	*	*	*	*	
Pearlshell, Alabama	*Margaritifera marrianae.*	U.S.A. (AL)	NA	E	808	17.95(f)	NA
*	*	*	*	*	*	*	
Pigtoe, fuzzy	*Pleurobema strodeanum.*	U.S.A. (AL, FL)	NA	T	808	17.95(f)	NA
*	*	*	*	*	*	*	
Pigtoe, narrow	*Fusconaia escambia*	U.S.A. (AL, FL)	NA	T	808	17.95(f)	NA
*	*	*	*	*	*	*	
Pigtoe, tapered	*Fusconaia burkei*	U.S.A. (AL, FL)	NA	T	808	17.95(f)	NA
*	*	*	*	*	*	*	
Sandshell, southern	*Hamiota australis*	U.S.A. (AL, FL)	NA	T	808	17.95(f)	NA
*	*	*	*	*	*	*	

■ 3. In § 17.95, amend paragraph (f) by adding an entry for eight mussel species in four northeastern Gulf of Mexico drainages, immediately before the entry for ''Georgia Pigtoe (*Pleurobema hanleyianum*)'' to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(f) *Clams and Snails.*

* * * * *

Eight mussel species in four northeast Gulf of Mexico drainages: the Choctaw bean (*Villosa choctawensis*), round ebonyshell (*Fusconaia rotulata*), southern kidneyshell (*Ptychobranchus jonesi*), Alabama pearlshell (*Margaritifera marrianae*), fuzzy pigtoe (*Pleurobema strodeanum*), narrow pigtoe (*Fusconaia escambia*), tapered pigtoe (*Fusconaia burkei*), and southern sandshell (*Hamiota australis*).

(1) Critical habitat units are depicted for the following counties:

(i) Alabama. Barbour, Bullock, Butler, Coffee, Conecuh, Covington, Crenshaw, Dale, Escambia, Geneva, Henry, Houston, Monroe, and Pike Counties.

(ii) Florida. Bay, Escambia, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington Counties.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of the Alabama pearlshell, round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe consist of five components:

(i) Geomorphically stable stream and river channels and banks (channels that maintain lateral dimensions, longitudinal profiles, and sinuosity patterns over time without an aggrading or degrading bed elevation).

(ii) Stable substrates of sand or mixtures of sand with clay or gravel with low to moderate amounts of fine sediment and attached filamentous algae.

(iii) A hydrologic flow regime (magnitude, frequency, duration, and seasonality of discharge over time) necessary to maintain benthic habitats where the species are found, and to maintain connectivity of rivers with the floodplain, allowing the exchange of nutrients and sediment for habitat maintenance, food availability, and spawning habitat for native fishes.

(iv) Water quality, including temperature (not greater than 32 °C), pH (between 6.0 to 8.5), oxygen content (not less than 5.0 milligrams per liter), hardness, turbidity, and other chemical characteristics necessary for normal behavior, growth, and viability of all life stages.

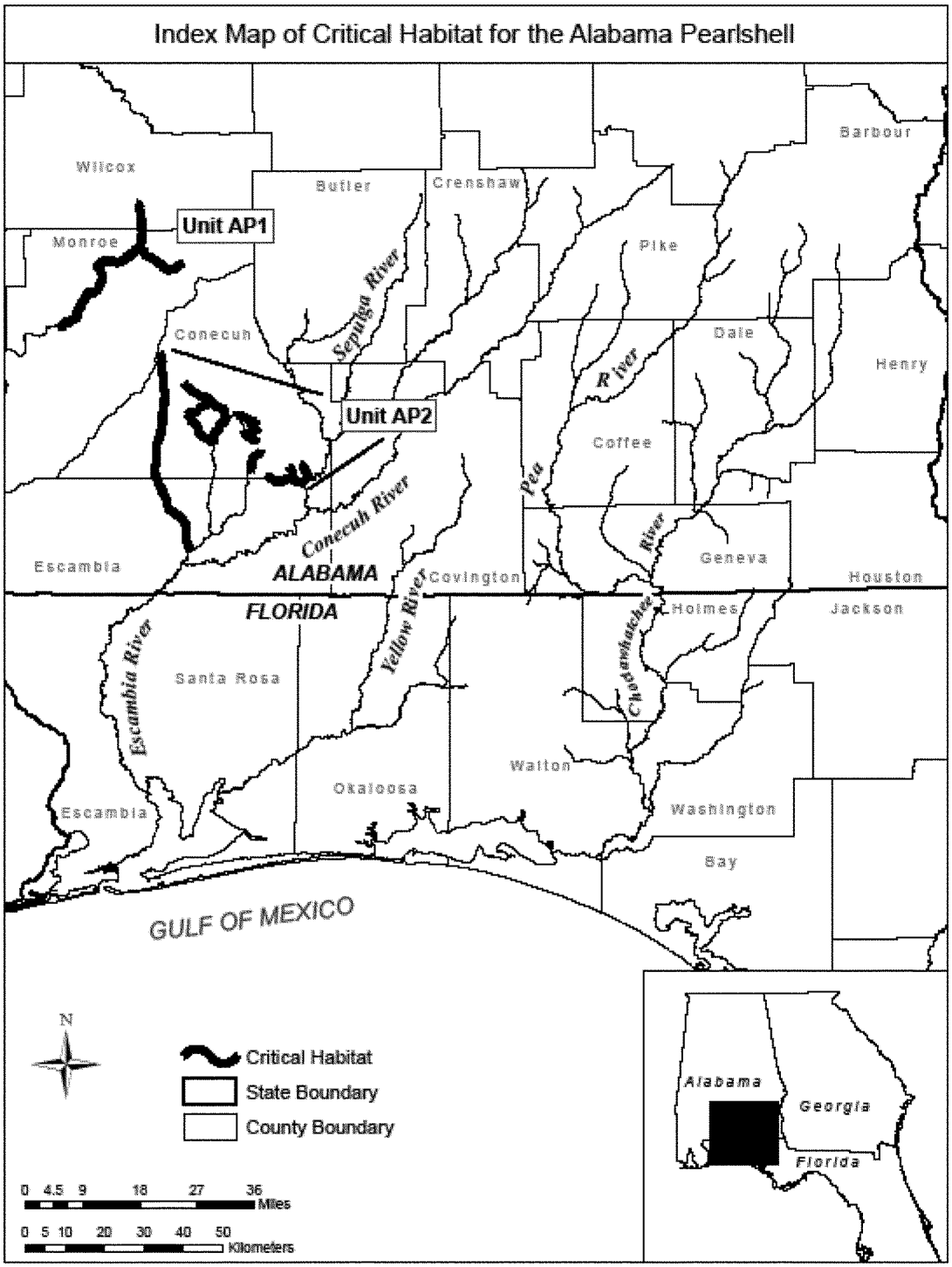
(v) The presence of fish hosts. Diverse assemblages of native fish species will serve as a potential indication of host fish presence until appropriate host fishes can be identified. For the fuzzy pigtoe and tapered pigtoe, the presence of blacktail shiner (*Cyprinella venusta*) will serve as a potential indication of fish host presence.

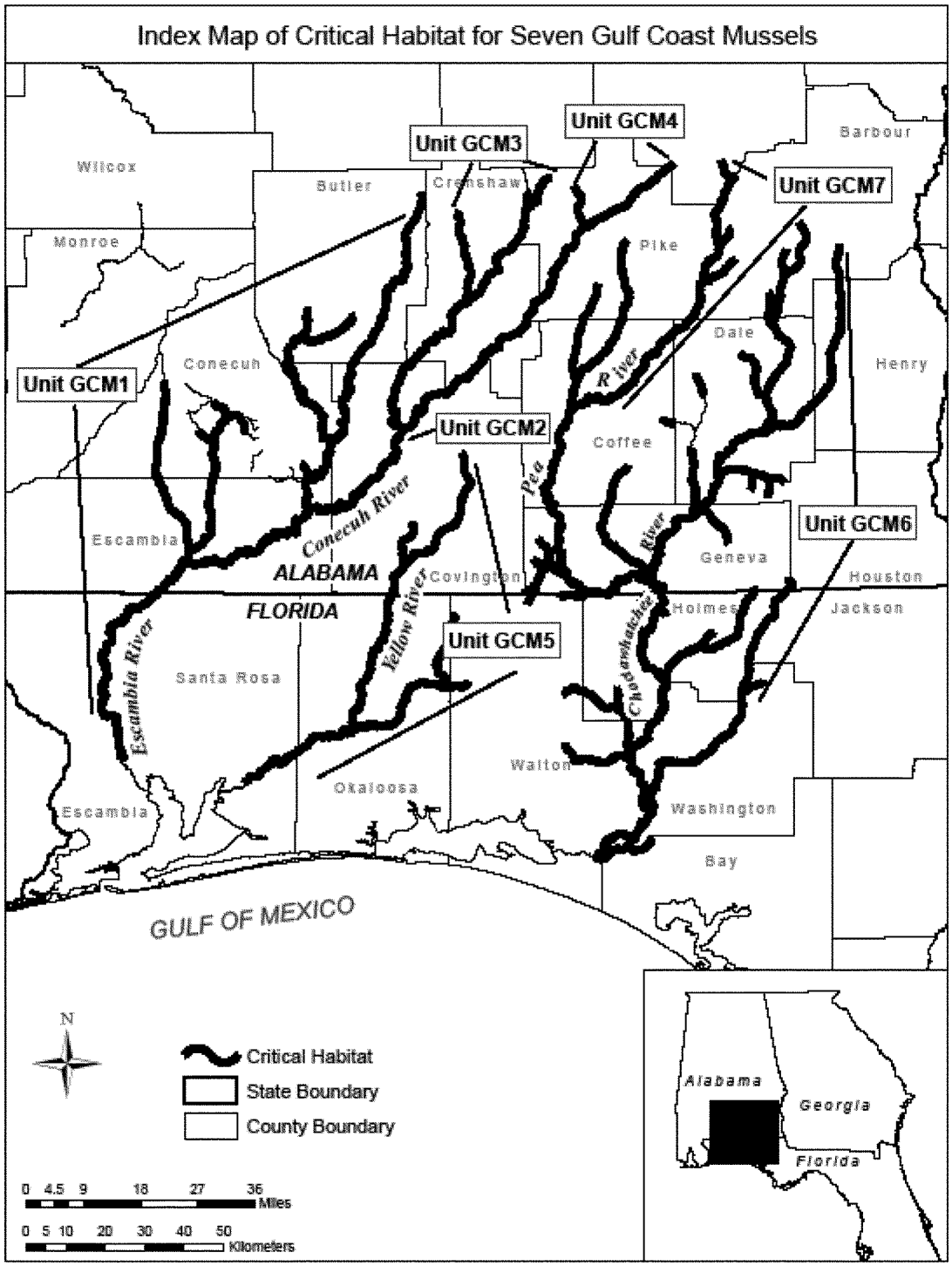
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, dams, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on November 9, 2012, with the exception of the impoundments created by Point A and Gantt Lake dams (impounded water, not the actual dam structures).

(4) *Critical habitat map units.* Data layers defining map units were created with USGS National Hydrography Dataset (NHD) GIS data. The 1:100,000 river reach (route) files were used to calculate river kilometers and miles. ESRIs ArcGIS 9.3.1 software was used to determine longitude and latitude coordinates using decimal degrees. The projection used in mapping all units was Universal Transverse Mercator (UTM), NAD 83, Zone 16 North. The following data sources were referenced to identify features (like roads and streams) used to delineate the upstream and downstream extents of critical habitat units: NHD data, Washington County USFWS National Wetlands Inventory, 1999 Florida Department of Transportation Roads Characteristics Inventory (RCI) dataset, U.S. Census Bureau 2000 TIGER line waterbody data, ESRIs World Street Map Service, Florida Department of Transportation General Highway Maps, DeLorme Atlas and Gazetteers, and USGS 7.5 minute topographic maps. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site, *http://www.fws.gov/PanamaCity, http://www.regulations.gov* at Docket No. FWS–R4–ES–2011–0050, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index maps follow (Map 1 for the Alabama pearlshell, and Map 2 for the round ebonyshell, southern kidneyshell, Choctaw bean, tapered pigtoe, narrow pigtoe, southern sandshell, and fuzzy pigtoe):

BILLING CODE 4310–55–P

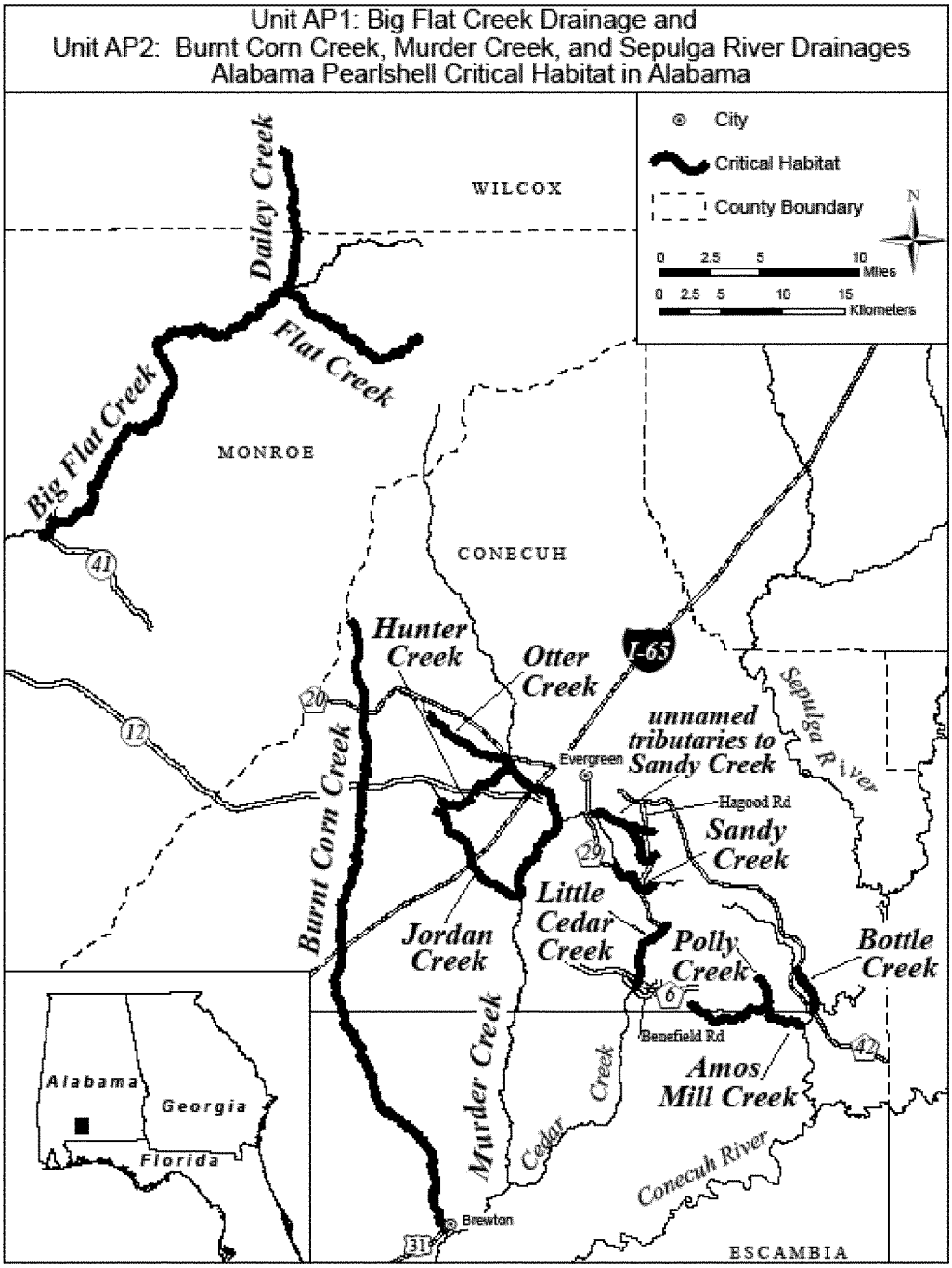

Index Map of Critical Habitat for the Alabama Pearlshell
Wilcox
Butler
Crenshaw
Barbour
Monroe
Unit AP1
Pike
Conecuh
Sepulga River
Dale
Henry
Unit AP2
Coffee
Pea River
Conecuh River
Escambia
ALABAMA
Covington
Geneva
Houston
FLORIDA
Holmes
Jackson
Escambia River
Yellow River
Chattahoochee River
Santa Rosa
Walton
Okaloosa
Escambia
Washington
Bay
GULF OF MEXICO
N
Critical Habitat
State Boundary
County Boundary
0 4.5 9 18 27 36
Miles
0 5 10 20 30 40 50
Kilometers
Alabama
Georgia
Florida



(6) Unit AP1: Big Flat Creek Drainage, Monroe and Wilcox Counties, AL. This unit is critical habitat for the Alabama pearlshell.

(i) The unit includes the mainstem of Big Flat Creek from State Route 41 upstream 56 kilometers (km) (35 miles (mi)), Monroe County, AL; Flat Creek from its confluence with Big Flat Creek upstream 20 km (12 mi), Monroe County, AL; and Dailey Creek from its confluence Flat Creek upstream 17 km (11 mi), Monroe and Wilcox Counties, AL.

(ii) Map of Unit AP1, Big Flat Creek Drainage, and Unit AP2, Burnt Corn Creek, Murder Creek, and Sepulga River drainages, follows:



BILLING CODE 4310–55–C

(7) Unit AP2: Burnt Corn Creek, Murder Creek, and Sepulga River. Drainages, Escambia and Conecuh Counties, AL. This unit is critical habitat for the Alabama pearlshell.

(i) The unit includes the mainstem of Burnt Corn Creek from its confluence with Murder Creek upstream 66 km (41 mi), Conecuh County, AL; the mainstem of Murder Creek from its confluence with Jordan Creek upstream 17 km (11 mi) to the confluence of Otter Creek, Conecuh County, AL; Jordan Creek from its confluence with Murder Creek upstream 12 km (7 mi), Conecuh County, AL; Otter Creek from its confluence with Murder Creek, upstream 9 km (5.5 mi), Conecuh County, AL; Hunter Creek from its confluence with Murder Creek upstream 4.4 km (2.7 mi) to the Navy Outlying Field (NOLF) Evergreen northern boundary, Conecuh County, AL; Hunter Creek from the NOLF Evergreen southern boundary upstream 3.0 km (1.9 mi), Conecuh County, AL; Sandy Creek from County Road 29 upstream 5 km (3.5 mi), Conecuh County, AL; two unnamed tributaries to Sandy Creek—one from its confluence with Sandy Creek upstream 8.5 km (5.0 mi) to just above Hagood Road, and the other from it confluence with the previous unnamed tributary upstream 2.5 km (1.5 mi) to just above Hagood Road; Little Cedar Creek from County Road 6 upstream 8 km (5 mi), Conecuh County, AL; Amos Mill Creek from its confluence with the Sepulga River upstream 12 km (8 mi), Escambia and Conecuh Counties, AL; Polly Creek from its confluence with Amos Mill Creek upstream 3 km (2 mi), Conecuh County, AL; and Bottle Creek from its

confluence with the Sepulga River upstream 5.5 km (3.5 mi) to County Road 42, Conecuh County, AL.

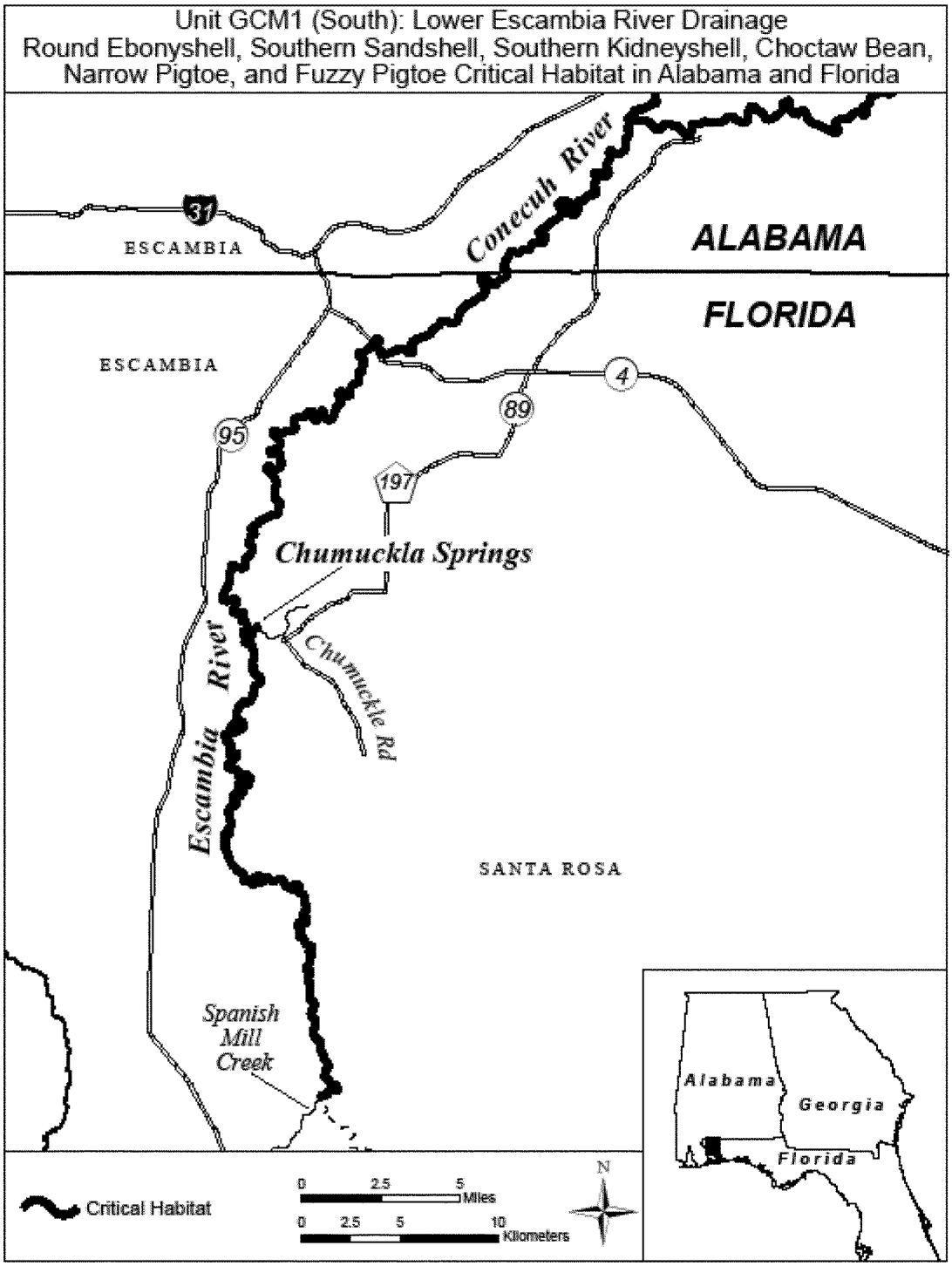
(ii) Map of Unit AP1, Big Flat Creek Drainage, and Unit AP2, Burnt Corn Creek, Murder Creek, and Sepulga River Drainages is provided at paragraph (6)(ii) of this entry.

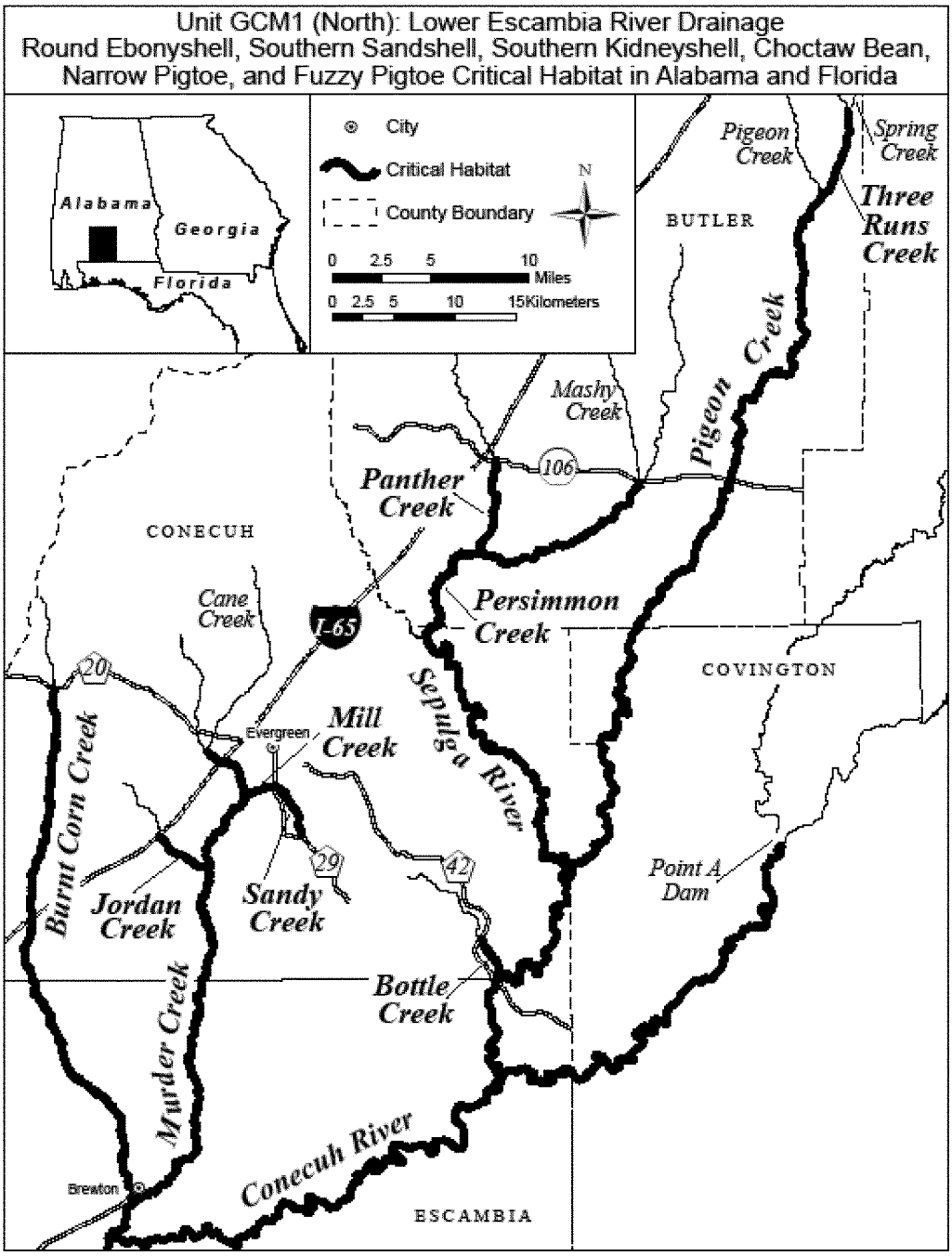
(8) Unit GCM1: Lower Escambia River Drainage in Escambia and Santa Rosa counties, FL, and Escambia, Covington, Conecuh, and Butler Counties, AL. This unit is critical habitat for the round ebonyshell, southern kidneyshell, Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe.

(i) The unit includes the Escambia-Conecuh River mainstem from the confluence of Spanish Mill Creek Escambia and Santa Rosa Counties, FL, upstream 204 km (127 mi) to the Point A Lake dam, Covington County, AL; Murder Creek from its confluence with the Conecuh River, Escambia County, AL, upstream 62 km (38 mi) to the confluence of Cane Creek, Conecuh County, AL; Burnt Corn Creek from its confluence with Murder Creek, Escambia County, AL, upstream 59 km (37 mi) to County Road 20, Conecuh County, AL; Jordan Creek from its confluence with Murder Creek, upstream 5.5 km (3.5 mi) to Interstate 65, Conecuh County, AL; Mill Creek from its confluence with Murder Creek upstream 2.5 km (1.5 mi) to the confluence of Sandy Creek, Conecuh County, AL; Sandy Creek from its confluence with Mill Creek upstream 5.5 km (3.5 mi) to County Road 29, Conecuh County, AL; Sepulga River from its confluence with the Conecuh River upstream 69 km (43 mi) to the confluence of Persimmon Creek, Conecuh County, AL; Bottle Creek from its confluence with the Sepulga River upstream 5.5 km (3.5 mi) to County Road 42, Conecuh County, AL; Persimmon Creek from its confluence with the Sepulga River, Conecuh County, upstream 36 km (22 mi) to the confluence of Mashy Creek, Butler County, AL; Panther Creek from its confluence with Persimmon Creek upstream 11 km (7 mi) to State Route 106, Butler County, AL; Pigeon Creek from its confluence with the Sepulga River, Conecuh and Covington Counties, upstream 89 km (55 mi) to the confluence of Three Run Creek, Butler County, AL; and Three Run Creek from its confluence with Pigeon Creek upstream 9 km (5.5 mi) to the confluence of Spring Creek, Butler County, AL.

(ii) Map of Unit GCM1, Lower Escambia River, follows (to preserve detail, the map is divided into south and north sections):

BILLING CODE 4310–55–P

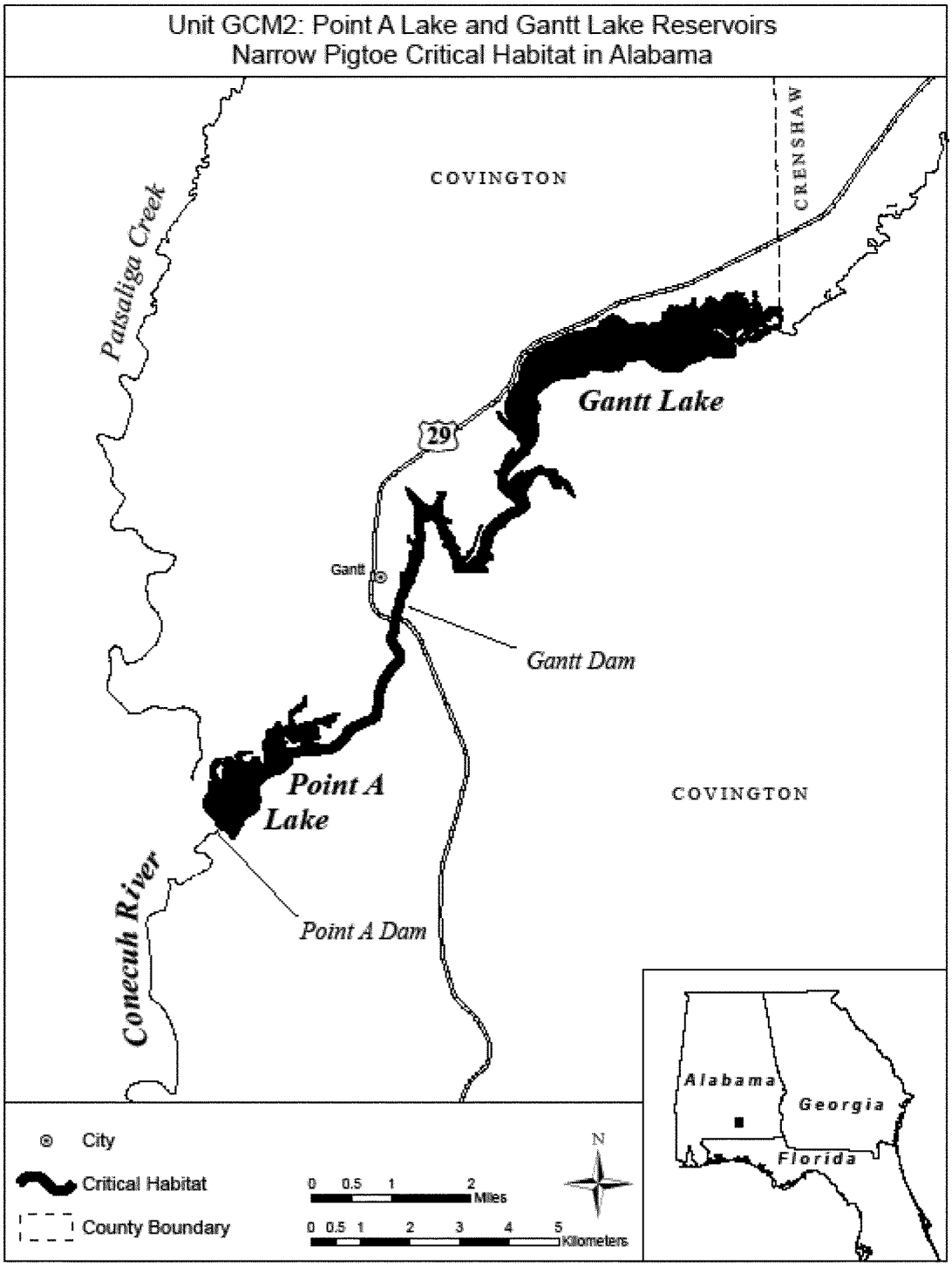

Unit GCM1 (South): Lower Escambia River Drainage
Round Ebonyshell, Southern Sandshell, Southern Kidneyshell, Choctaw Bean, Narrow Pigtoe, and Fuzzy Pigtoe Critical Habitat in Alabama and Florida
Conecuh River
31
ESCAMBIA
ALABAMA
FLORIDA
ESCAMBIA
4
89
95
197
Chumuckla Springs
Chumuckla Rd
Escambia River
SANTA ROSA
Spanish Mill Creek
Alabama
Georgia
Florida
Critical Habitat
0 2.5 5 Miles
0 2.5 5 10 Kilometers
N



(9) Unit GCM2: Point A Lake and Gantt Lake Reservoirs in Covington County, AL. This unit is critical habitat for the narrow pigtoe.

(i) The unit extends from Point A Dam, Covington County, upstream 21 km (13 mi) to the Covington-Crenshaw County line, AL.

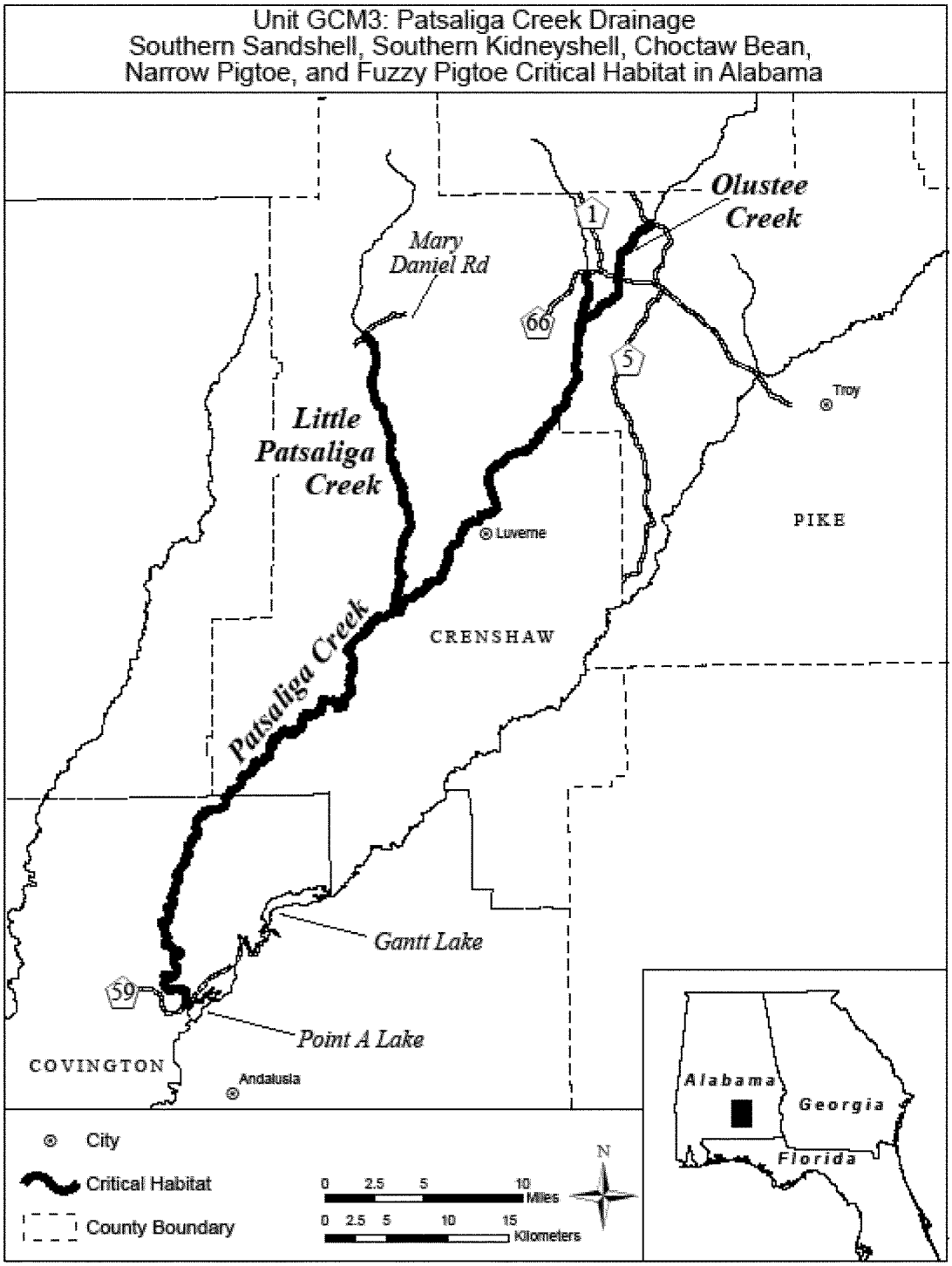
(ii) Map of Unit GCM2, Point A Lake and Gantt Lake Reservoirs, follows:



(10) Unit GCM3: Patsaliga Creek Drainage in Covington, Crenshaw, and Pike Counties, AL. The Patsaliga Creek drainage is within the Escambia River basin. This unit is critical habitat for the southern kidneyshell, Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe.

(i) The unit includes Patsaliga Creek from its confluence with Point A Lake at County Road 59, Covington County, AL, upstream 108 km (67 mi) to Crenshaw County Road 66-Pike County Road 1, AL; Little Patsaliga Creek from its confluence with Patsaliga Creek upstream 28 km (17 mi) to Mary Daniel Road, Crenshaw County, AL; and Olustee Creek from its confluence with Patsaliga Creek upstream 12 km (8 mi) to County Road 5, Pike County, AL.

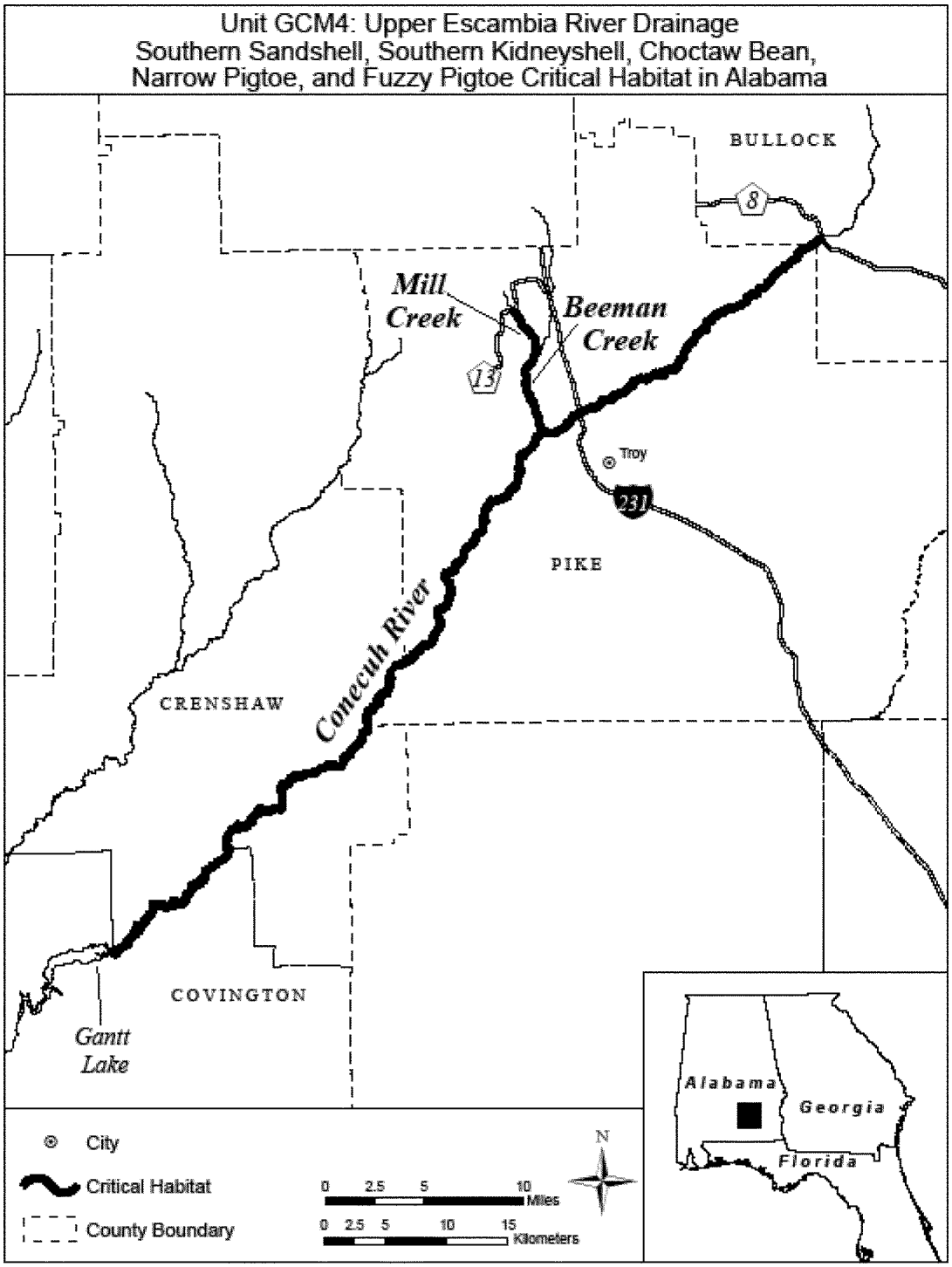
(ii) Map of Unit GCM3, Patsaliga Creek Drainage follows:



(11) Unit GCM4: Upper Escambia River Drainage in Covington, Crenshaw, Pike, and Bullock Counties, AL. This unit is critical habitat for the southern kidneyshell, Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe.

(i) The unit includes the Conecuh River from its confluence with Gantt Lake reservoir at the Covington-Crenshaw County line upstream 126 km (78 mi) to County Road 8, Bullock County, AL; Beeman Creek from its confluence with the Conecuh River upstream 6.5 km (4 mi) to the confluence of Mill Creek, Pike County, AL; and Mill Creek from its confluence with Beeman Creek, upstream 4.5 km (3 mi) to County Road 13, Pike County, AL.

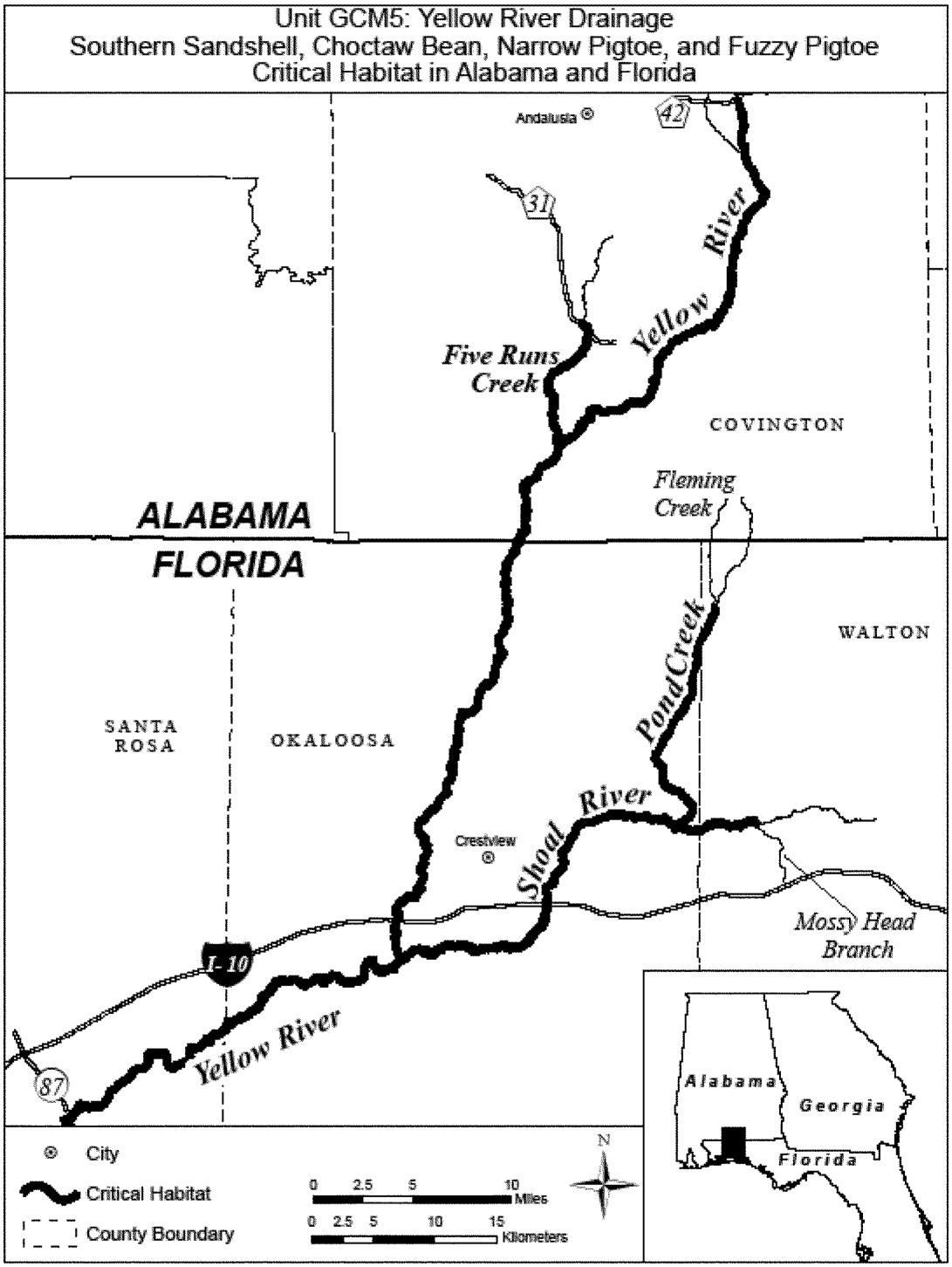
(ii) Map of Unit GCM 4, Upper Escambia River Drainage, follows:



(12) Unit GCM5: Yellow River Drainage in Santa Rosa, Okaloosa, and Walton Counties, FL, and Covington County, AL. This unit is critical habitat for the Choctaw bean, narrow pigtoe, southern sandshell, and fuzzy pigtoe.

(i) The unit includes the Yellow River mainstem from the confluence of Weaver River (a distributary located 0.9 km (0.6 mi), downstream of State Route 87), Santa Rosa County, FL, upstream 157 km (97 mi) to County Road 42, Covington County, AL; the Shoal River mainstem from its confluence with the Yellow River upstream 51 km (32 mi) to the confluence of Mossy Head Branch, Walton County, FL; Pond Creek from its confluence with the Shoal River upstream 24 km (15 mi) to the confluence of Fleming Creek, Walton County, FL; and Five Runs Creek from its confluence with the Yellow River upstream 15 km (9.5 mi) to County Road 31, Covington County, AL.

(ii) Map of Unit GCM5, Yellow River Drainage, follows:



BILLING CODE 4310–55–C

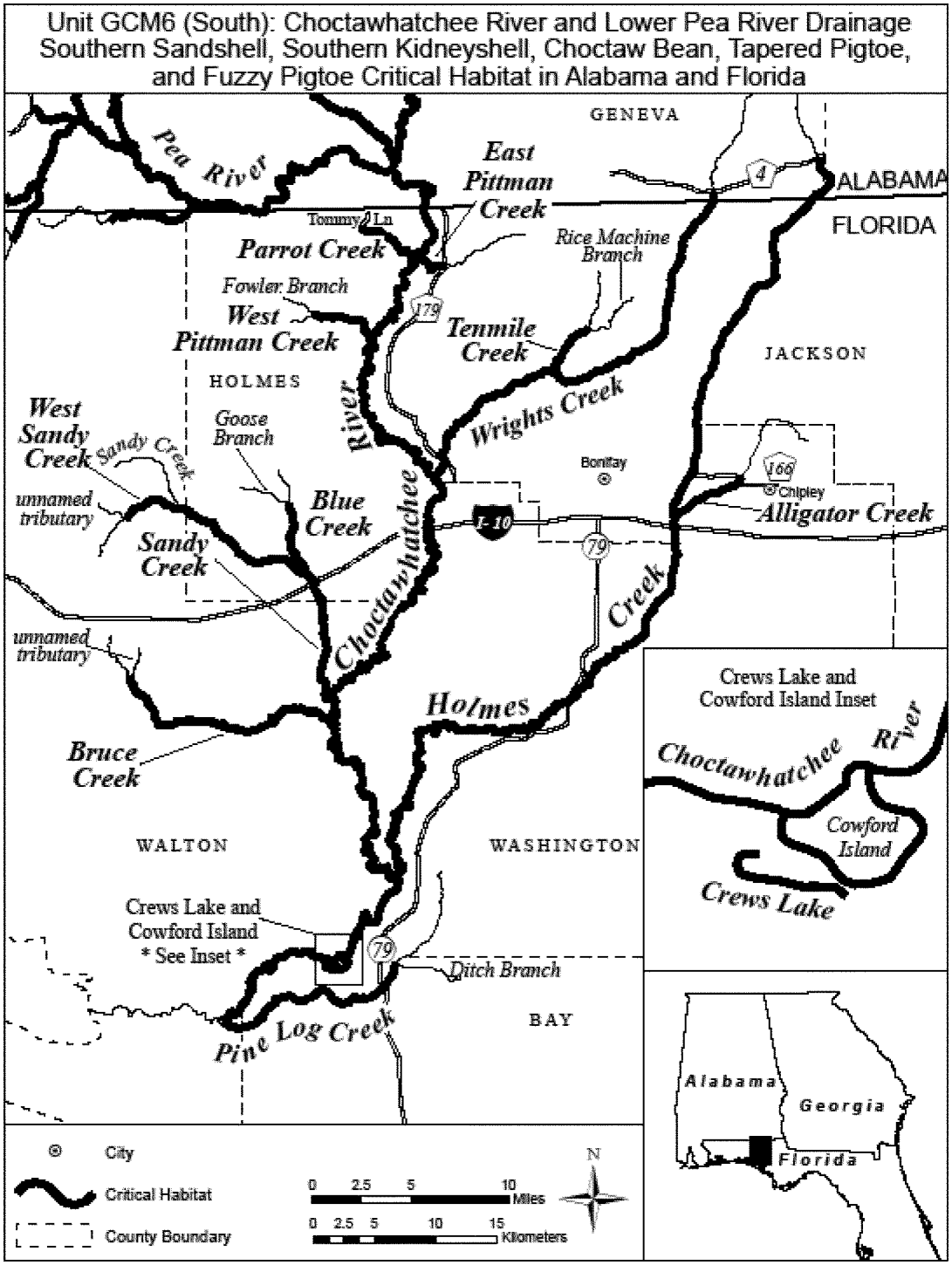
(13) Unit GCM6: Choctawhatchee River and Lower Pea River Drainages in Walton, Washington, Bay, Holmes, and Jackson Counties, FL, and Geneva, Coffee, Dale, Houston, Henry, Pike, and Barbour Counties, AL. This unit is critical habitat for the southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe.

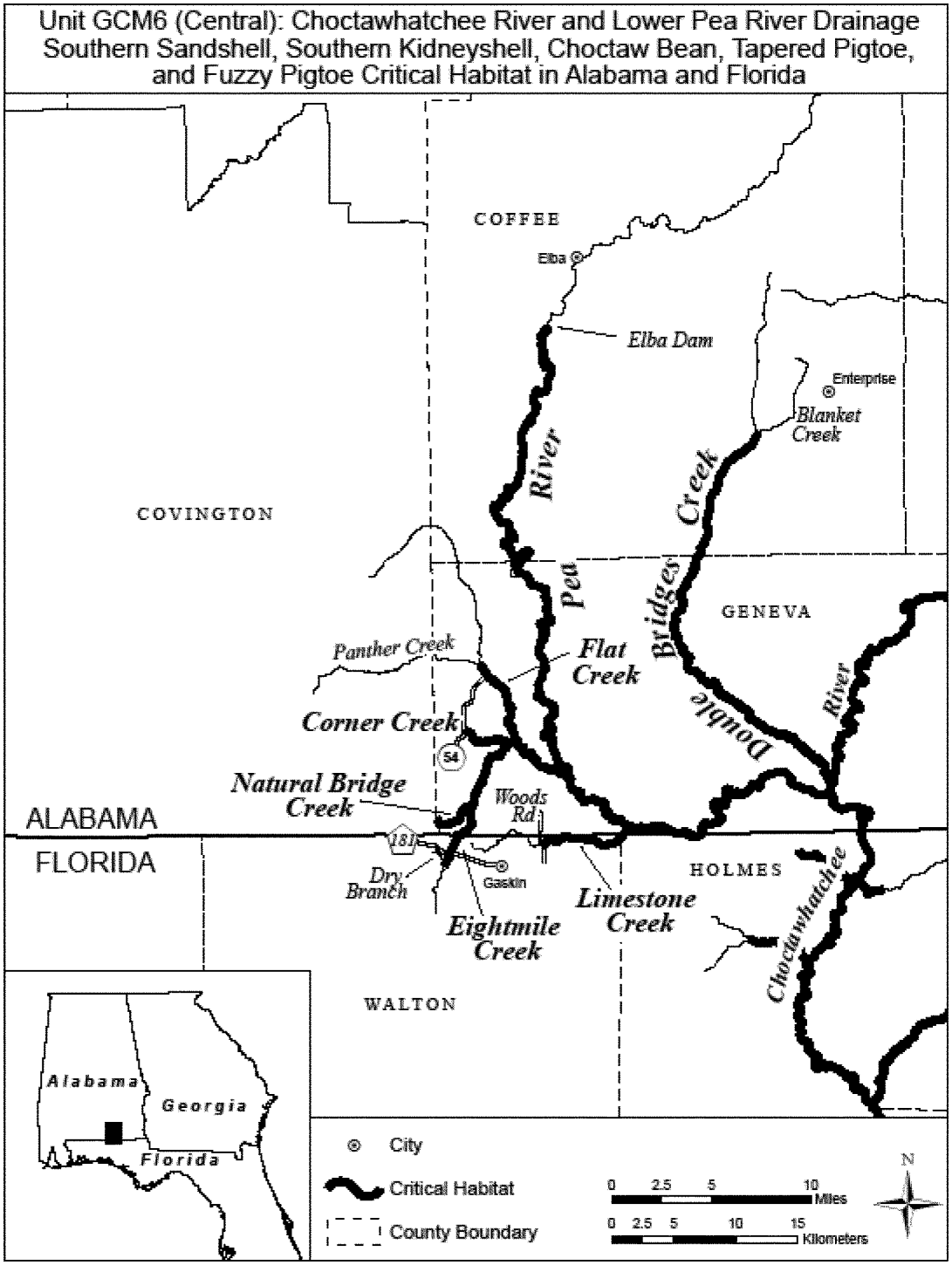
(i) The unit includes the Choctawhatchee River mainstem from the confluence of Pine Log Creek, Walton County, FL, upstream 200 km (125 mi) to the point the river splits into the West Fork Choctawhatchee and East Fork Choctawhatchee rivers, Barbour County, AL; Pine Log Creek from its confluence with the Choctawhatchee River, Walton County, upstream 19 km (12 mi) to Ditch Branch, Washington and Bay Counties, FL; an unnamed channel forming Cowford Island from its downstream confluence with the Choctawhatchee River upstream 3 km (2 mi) to its upstream confluence with the river, Washington County, FL; Crews Lake from its western terminus 1.5 km (1 mi) to its eastern terminus, Washington County, FL (Crews Lake is a relic channel southwest of Cowford Island, and is disconnected from the Cowford Island channel, except during high flows); Holmes Creek from its

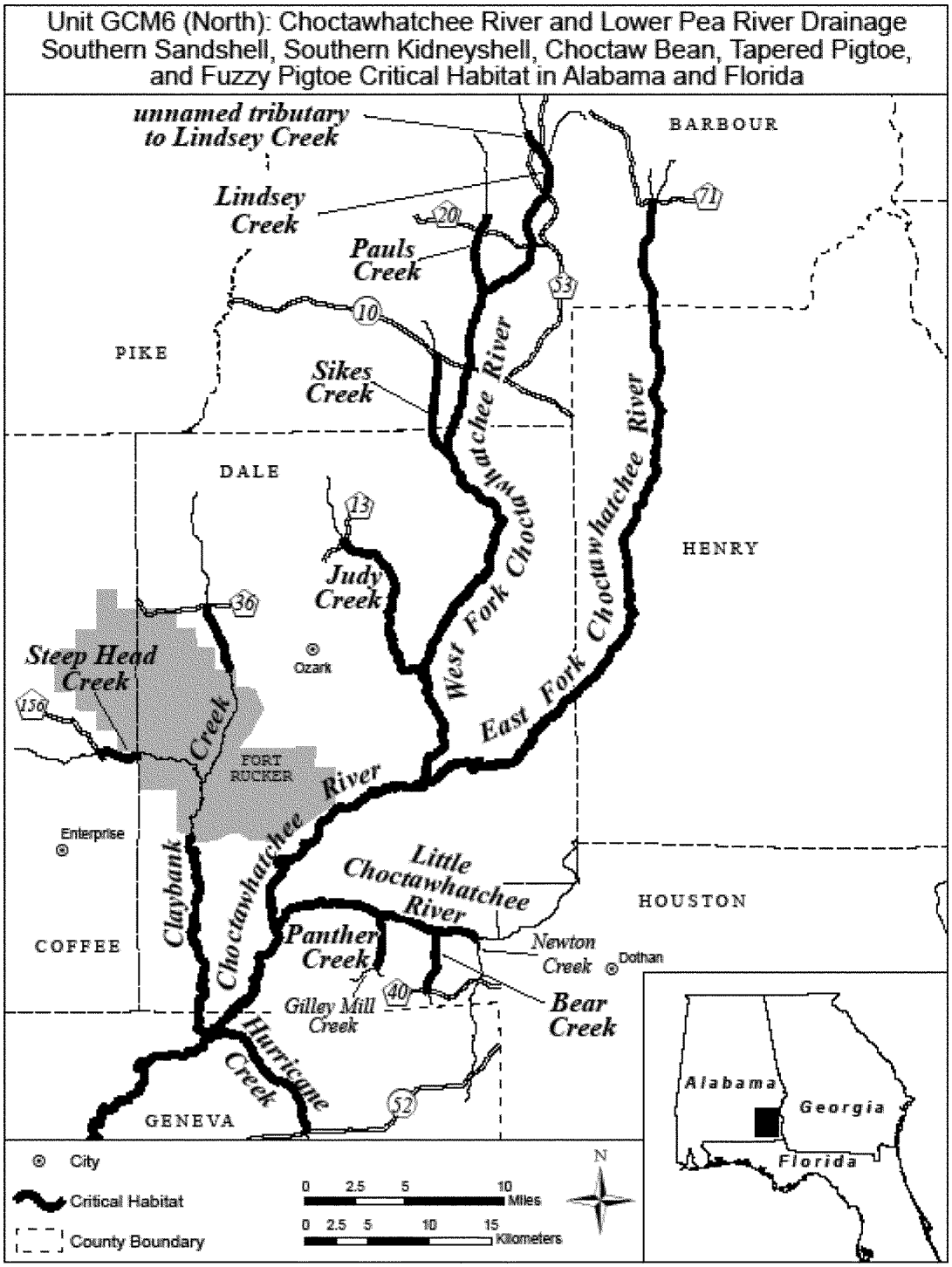
confluence with the Choctawhatchee River, Washington County, FL, upstream 98 km (61 mi) to County Road 4, Geneva County, AL; Alligator Creek from its confluence with Holmes Creek upstream 6.5 km (4 mi) to County Road 166, Washington County, FL; Bruce Creek from its confluence with the Choctawhatchee River upstream 25 km (16 mi) to the confluence of an unnamed tributary, Walton County, FL; Sandy Creek from its confluence with the Choctawhatchee River, upstream 30 km (18 mi) to the confluence of West Sandy Creek, Holmes and Walton Counties, FL; Blue Creek from its confluence with Sandy Creek, upstream 7 km (4.5 mi) to the confluence of Goose Branch, Holmes County, FL; West Sandy Creek from its confluence with Sandy Creek, upstream 5.5 km (3.5 mi) to the confluence of an unnamed tributary, Walton County, FL; Wrights Creek from its confluence with the Choctawhatchee River, Holmes County, FL, upstream 43 km (27 mi) to County Road 4, Geneva County, AL; Tenmile Creek from its confluence with Wrights Creek upstream 6 km (3.5 mi) to the confluence of Rice Machine Branch, Holmes County, FL; West Pittman Creek from its confluence with the Choctawhatchee River, upstream 6.5 km (4 mi) to Fowler Branch, Holmes County, FL; East Pittman Creek from its confluence with the Choctawhatchee River upstream 4.5 km (3 mi) to County Road 179, Holmes County, FL; Parrot Creek from its confluence with the Choctawhatchee River upstream 6 km (4 mi) to Tommy Lane, Holmes County, FL; the Pea River from its confluence with the Choctawhatchee River, Geneva County, AL, upstream 91 km (57 mi) to the Elba Dam, Coffee County, AL; Limestone Creek from its confluence with the Pea River upstream 8.5 km (5 mi) to Woods Road, Walton County, FL; Flat Creek from the Pea River upstream 17 km (10 mi) to the confluence of Panther Creek, Geneva County, AL; Eightmile Creek from its confluence with Flat Creek, Geneva County, AL, upstream 15 km (9 mi) to the confluence of Dry Branch (first tributary upstream of County Road 181), Walton County, FL; Corner Creek from its confluence with Eightmile Creek, upstream 5 km (3 mi) to State Route 54, Geneva County, AL; Natural Bridge Creek from its confluence with Eightmile Creek, Geneva County, AL, upstream 4 km (2.5 mi) to the Covington-Geneva County line, AL; Double Bridges Creek from its confluence with the Choctawhatchee River, Geneva County, AL, upstream 46 km (29 mi) to the confluence of Blanket Creek, Coffee County, AL; Claybank Creek from its confluence with the Choctawhatchee River, Geneva County, AL, upstream 22 km (14 mi) to the Fort Rucker military reservation southern boundary, Dale County, AL; Claybank Creek from the Fort Rucker military reservation northern boundary, upstream 6 km (4 mi) to County Road 36, Dale County, AL; Steep Head Creek from the Fort Rucker military reservation western boundary, upstream 4 km (2.5 mi) to County Road 156, Coffee County, AL; Hurricane Creek from its confluence with the Choctawhatchee River upstream 14 km (8.5 mi) to State Route 52, Geneva County, AL; Little Choctawhatchee River from its confluence with the Choctawhatchee River, Dale and Houston Counties, upstream 20 km (13 mi) to the confluence of Newton Creek, Houston County, AL; Panther Creek from its confluence with Little Choctawhatchee River, upstream 4.5 km (2.5 mi) to the confluence of Gilley Mill Branch, Houston County, AL; Bear Creek from its confluence with the Little Choctawhatchee River, upstream 5.5 km (3.5 mi) to County Road 40 (Fortner Street), Houston County, AL; West Fork Choctawhatchee River from its confluence with the Choctawhatchee River, Dale County, AL, upstream 54 km (33 mi) to the fork of Pauls Creek and Lindsey Creek, Barbour County, AL; Judy Creek from its confluence with West Fork Choctawhatchee River upstream 17 km (11 mi) to County Road 13, Dale County, AL; Sikes Creek from its confluence with West Fork Choctawhatchee River Dale County, AL, upstream 8.5 km (5.5 mi) to State Route 10, Barbour County, AL; Pauls Creek from its confluence with West Fork Choctawhatchee River upstream 7 km (4.5 mi) to one mile upstream of County Road 20, Barbour County, AL; Lindsey Creek from its confluence with West Fork Choctawhatchee River upstream 14 km (8.5 mi) to the confluence of an unnamed tributary, Barbour County, AL; an unnamed tributary to Lindsey Creek from its confluence with Lindsey Creek upstream 2.5 km (1.5 mi) to 1.0 mile upstream of County Road 53, Barbour County, AL; and East Fork Choctawhatchee River from its confluence with the Choctawhatchee River, Dale County, AL, upstream 71 km (44 mi) to County Road 71, Barbour County, AL.

(ii) Map of Unit GCM6, Choctawhatchee River and Lower Pea River Drainages, follows (to preserve detail, the map is divided into south, central, and north sections):

BILLING CODE 4310–55–P


Unit GCM6 (South): Choctawhatchee River and Lower Pea River Drainage
Southern Sandshell, Southern Kidneyshell, Choctaw Bean, Tapered Pigtoe,
and Fuzzy Pigtoe Critical Habitat in Alabama and Florida
GENEVA
Pea River
East Pittman Creek
ALABAMA
FLORIDA
Tommy Ln
Parrot Creek
Rice Machine Branch
Fowler Branch
West Pittman Creek
179
Tenmile Creek
JACKSON
HOLMES
West Sandy Creek
Sandy Creek
Goose Branch
Choctawhatchee River
Wrights Creek
Bonifay
166
Chipley
unnamed tributary
Blue Creek
I-10
Alligator Creek
Sandy Creek
79
Creek
unnamed tributary
Holmes
Crews Lake and Cowford Island Inset
Choctawhatchee River
Bruce Creek
Cowford Island
WALTON
WASHINGTON
Crews Lake
Crews Lake and Cowford Island * See Inset *
79
Ditch Branch
BAY
Pine Log Creek
Alabama
Georgia
Florida
City
Critical Habitat
County Boundary
N
0 2.5 5 10 Miles
0 2.5 5 10 15 Kilometers

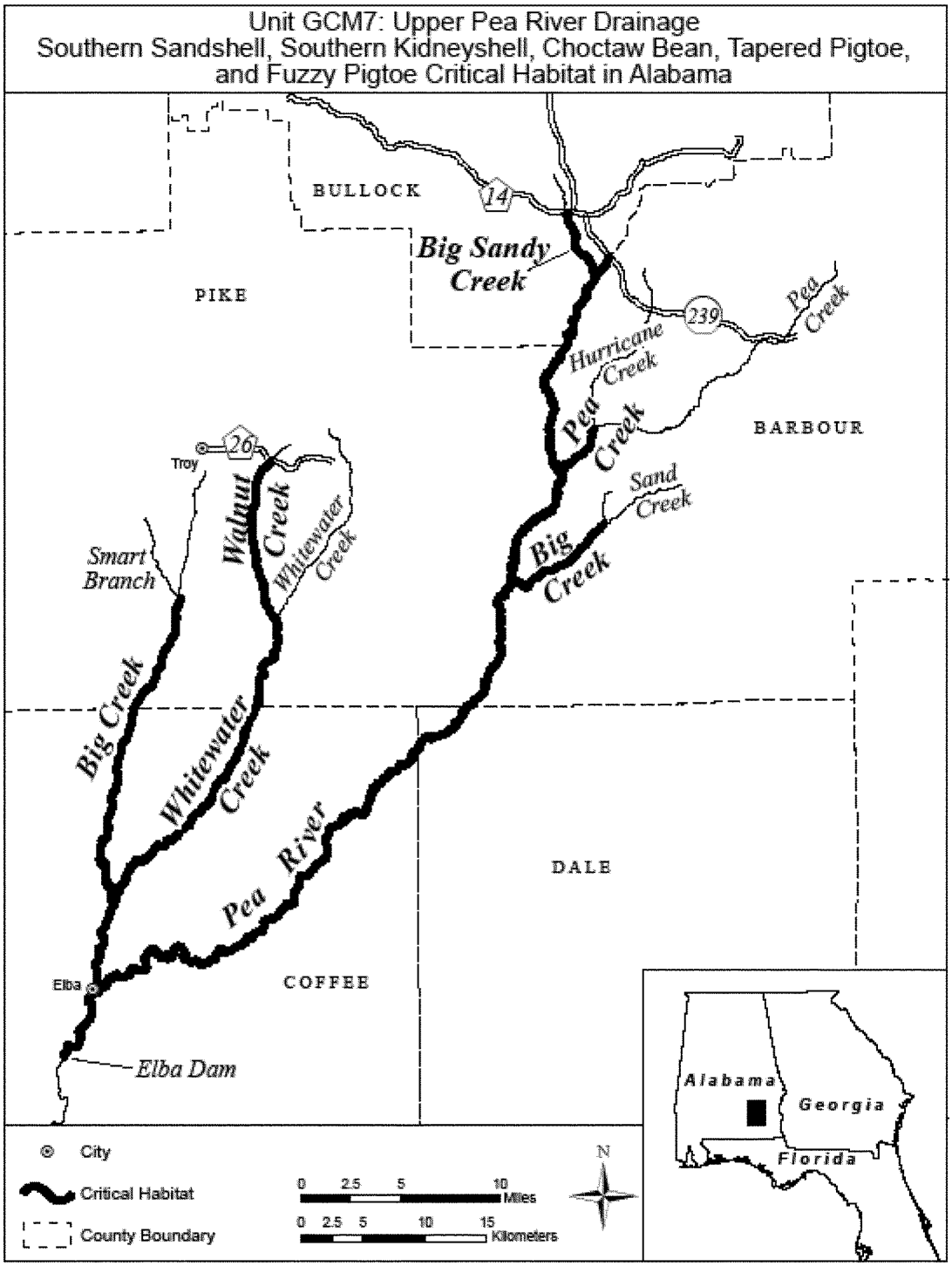

Unit GCM6 (Central): Choctawhatchee River and Lower Pea River Drainage
Southern Sandshell, Southern Kidneyshell, Choctaw Bean, Tapered Pigtoe,
and Fuzzy Pigtoe Critical Habitat in Alabama and Florida
COFFEE
Elba
Elba Dam
Enterprise
Blanket Creek
Pea River
Bridges Creek
COVINGTON
GENEVA
Panther Creek
Flat Creek
Double River
Corner Creek
54
Natural Bridge Creek
Woods Rd
ALABAMA
FLORIDA
181
Dry Branch
Gaskin
Eightmile Creek
Limestone Creek
HOLMES
Choctawhatchee
WALTON
Alabama
Georgia
Florida
City
Critical Habitat
County Boundary
0 2.5 5 10 Miles
0 2.5 5 10 15 Kilometers
N



(14) Unit GCM7: Upper Pea River Drainage in Coffee, Dale, Pike, Barbour, and Bullock Counties, AL. The Pea River drainage is within the Choctawhatchee River Basin. This unit is critical habitat for the southern kidneyshell, Choctaw bean, tapered pigtoe, southern sandshell, and fuzzy pigtoe.

(i) The unit includes the Pea River mainstem from the Elba Dam, Coffee County, upstream 123 km (76 mi) to State Route 239, Bullock and Barbour Counties, AL; Whitewater Creek from its confluence with the Pea River, Coffee County, upstream 45 km (28 mi) to the confluence of Walnut Creek, Pike County, AL; Walnut Creek from its confluence with Whitewater Creek upstream 14 km (9 mi) to County Road 26, Pike County, AL; Big Creek (Coffee County) from its confluence with Whitewater Creek, Coffee County, upstream 30 km (18 mi) to the confluence of Smart Branch, Pike County, AL; Big Creek (Barbour County) from its confluence with the Pea River upstream 10 km (6 mi) to the confluence of Sand Creek, Barbour County, AL; Pea Creek from its confluence with the Pea River upstream 6 km (4 mi) to the confluence of Hurricane Creek, Barbour County, AL; and Big Sandy Creek from its confluence with the Pea River upstream 6.5 km (4 mi) to County Road 14, Bullock County, AL.

(ii) Map of Unit GCM7, Upper Pea River Drainage, follows:



* * * * *

Dated: September 20, 2012.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–24161 Filed 10–9–12; 8:45 am]

BILLING CODE 4310–55–P

Reader Aids

Federal Register

Vol. 77, No. 196

Wednesday, October 10, 2012

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, OCTOBER

59709–60028 1
60029–60276 2
60277–60602 3
60603–60882 4
60883–61228 5
61229–61506 9
61507–61720 10

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8871 60277
8872 60279
8873 60603
8874 60605
8875 60607
8876 60609
8877 60611
8878 60613
8879 60615
8880 60617

Executive Orders:
13627 60029

Administrative Orders:
Memorandums:
Memorandum of September 27, 2012 60035
Notices:
Notice of September 11, 2012 (corrected) 60037
Order of September 28, 2012 60281
Presidential Determinations:
No. 2012–17 of September 28, 2012 61507
No. 2012–18 of September 28, 2012 61509

5 CFR

1631 ..... 60039, 61229

7 CFR

301 59709
331 61056

9 CFR

121 61056

10 CFR

50 60039
429 ..... 59712, 59719
430 ..... 59712, 59719

12 CFR

9 61229
46 61238
611 60582
612 60582
619 60582
620 60582
630 60582

Proposed Rules:
45 60057
237 60057
324 60057
624 60057
1221 60057
1238 60948

14 CFR

29 60883
39 ..... 59726, 59728, 59732, 60285, 60288, 60296, 60887, 60889, 60891, 61511
71 61248
97 ..... 59735, 59738
400 61513
1204 60619
1212 60620

Proposed Rules:
39 ..... 59873, 60060, 60062, 60064, 60073, 60075, 60323, 60325, 60331, 60651, 60653, 60655, 60658, 61303, 61539, 61542, 61548, 61550
71 ..... 60660, 61304, 61306

15 CFR

744 61249

16 CFR

1101 61513

18 CFR

357 59739
375 59745

19 CFR

Proposed Rules:
210 60952

20 CFR

655 60040

21 CFR

510 ..... 60301, 60622
520 60622
522 60301
524 60301
558 ..... 60301, 60622

23 CFR

Proposed Rules:
771 59875
1200 60956

25 CFR

36 60041
542 60625
543 60625

26 CFR

Proposed Rules:
1 ..... 59878, 60959
20 60960
25 60960

28 CFR

16 61275

31 CFR

1010.....59747

33 CFR

100.....59749, 60302
117.....60896
165 .....59749, 60042, 60044, 60897, 60899, 60901, 60904

Proposed Rules:

110.....60081
165.....60960

34 CFR

36.....60047

36 CFR

7.....60050

37 CFR

Proposed Rules:

201.....60333

38 CFR

9.....60304

39 CFR

Proposed Rules:

111.....60334
3001.....61307

40 CFR

9.....61118
52 .....59751, 59755, 60053, 60307, 60626, 60627, 60904, 60907, 60910, 60914, 60915, 61276, 61279, 61478, 61513
80.....61281
180 .....60311, 60917, 61515
271.....60919
272.....59758
721.....61118

Proposed Rules:

2.....60902
52 .....59879, 60085, 60087, 60089, 60094, 60339, 60661
55.....61308
63.....60341
80.....61313
271.....60963, 61326
272.....59879

42 CFR

73.....61084
412.....60315
413.....60315
424.....60315
476.....60315

44 CFR

64 .....59762, 59764, 61518
65.....59767

Proposed Rules:

67.....59880, 61559

45 CFR

162.....60629
2510.....60922
2522.....60922
2540.....60922
2551.....60922
2552.....60922

46 CFR

1.....59768
2.....59768
6.....59768
8.....59768
10.....59768
11.....59768
12.....59768
15.....59768
16.....59768
24.....59768
25.....59768
26.....59768
27.....59768
28.....59768
30.....59768
31.....59768
32.....59768
34.....59768
35.....59768
39.....59768
42.....59768
46.....59768
50.....59768
52.....59768
53.....59768
54.....59768
56.....59768
57.....59768
58.....59768
59.....59768
61.....59768
62.....59768
63.....59768
64.....59768
67.....59768
70.....59768
71.....59768
76.....59768
77.....59768
78.....59768
90.....59768
91.....59768
92.....59768
95.....59768
96.....59768
97.....59768
98.....59768
105.....59768
107.....59768
108.....59768
109.....59768
110.....59768
111.....59768
114.....59768
117.....59768
125.....59768
126.....59768
127.....59768
128.....59768
130.....59768
131.....59768
133.....59768
134.....59768
147.....59768
148.....59768
150.....59768
151.....59768
153.....59768
154.....59768
159.....59768
160.....59768
161.....59768
162.....59768
164.....59768
167.....59768
169.....59768
170.....59768
171.....59768
172.....59768
174.....59768
175.....59768
179.....59768
180.....59768
188.....59768
189.....59768
193.....59768
194.....59768
195.....59768
197.....59768
199.....59768
401.....59768
502.....61519

Proposed Rules:

7.....59881
8.....60096

47 CFR

0.....60934
64.....60630
90.....61535

Proposed Rules:

1.....60666
20.....61330
64.....60343
73.....59882
76.....61351

48 CFR

504.....59790
552.....59790

Proposed Rules:

53.....60343
1552.....60667

49 CFR

33.....59793
40.....60318
107.....60935
171.....60935
172.....60935
173.....60056, 60935
175.....60935
178.....60935
179.....60935
Ch. III.....59818, 59840
303.....59818
325.....59818
350.....59818
355.....59818
356.....59818
360.....59818
365.....59818
366.....59818
367.....59818
368.....59818
369.....59818
370.....59818
371.....59818
372.....59818
373.....59818
374.....59818
375.....59818
376.....59818
377.....59818
378.....59818
379.....59818
380.....59818
381.....59818
382.....59818
383.....59818
384.....59818
385.....59818
386.....59818
387.....59818
388.....59818
389.....59818
390.....59818
391.....59818
392.....59818
393.....59818
395.....59818
396.....59818
397.....59818
398.....59818
399.....59818
450.....59768
451.....59768
452.....59768
453.....59768
593.....59829

Proposed Rules:

622.....59875

50 CFR

17.....60750, 61664
229.....60319
300.....60631
600.....59842
622 .....60945, 60946, 61295
635.....59842, 60632
648.....61299
665.....60637
679 .....59852, 60321, 60649, 61300

Proposed Rules:

17 .....60180, 60208, 60238, 60510, 60778, 60804, 61375
223.....61559
224.....61559
635.....61562
648.....59883

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.J. Res. 117/P.L. 112–175
Making continuing appropriations for fiscal year 2013, and for other puroses. (Sept. 28, 2012; 126 Stat. 1313)

S. 3245/P.L. 112–176
To extend by 3 years the authorization of the EB-5 Regional Center Program, the E-Verify Program, the Special Immigrant Nonminister Religious Worker Program, and the Conrad State 30 J-1 Visa Waiver Program. (Sept. 28, 2012; 126 Stat. 1325)

S. 3552/P.L. 112–177
Pesticide Registration Improvement Extension Act of 2012 (Sept. 28, 2012; 126 Stat. 1327)

S. 3625/P.L. 112–178
To change the effective date for the internet publication of certain information to prevent harm to the national security or endangering the military officers and civilian employees to whom the publication requirement applies, and forother purposes. (Sept. 28, 2012; 126 Stat. 1408)

Last List September 24, 2012

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.