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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, November 13, 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



Contents

Federal Register

Vol. 77, No. 209

Monday, October 29, 2012

Agriculture Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65531–65532

Arts and Humanities, National Foundation

See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention

NOTICES

Agency Forms Undergoing Paperwork Reduction Act Review, 65552–65553

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65553–65554

Meetings:

Advisory Council for the Elimination of Tuberculosis, 65555

Subcommittee for Dose Reconstruction Reviews, Advisory Board on Radiation and Worker Health, National Institute for Occupational Safety and Health, 65554–65555

Centers for Medicare & Medicaid Services

RULES

Medicare Program:

Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals' Resident Caps for Graduate Medical Education Payment Purposes, etc.; Corrections, 65495–65496

Coast Guard

RULES

Safety Zones:

Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, et al., Chicago, IL, 65478

NOTICES

Meetings:

Merchant Marine Personnel Advisory Committee, 65570–65571

Commerce Department

See International Trade Administration

See National Oceanic and Atmospheric Administration

See Patent and Trademark Office

Commodity Futures Trading Commission

NOTICES

Meetings:

Global Markets Advisory Committee, 65539

Defense Department

NOTICES

Privacy Act; Systems of Records, 65539–65540

Education Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Fast Response Survey System 105, Condition of Public School Facilities, 65541–65542

Impact Evaluation of Teacher and Leader Evaluation Systems, 65541

Employment and Training Administration

NOTICES

Amended Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance:

Novartis Pharmaceuticals Corp., et al., East Hanover, NJ, 65581

Pfizer Therapeutic Research, Groton, CT, 65582

Quad Graphics, Inc., Effingham, IL, 65582

Verizon Business Networks Services, Inc., Hilliard, OH, 65581–65582

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance, 65582–65585

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance, 65585

Energy Department

See Energy Efficiency and Renewable Energy Office

See Federal Energy Regulatory Commission

Energy Efficiency and Renewable Energy Office

NOTICES

Meetings:

Hydrogen and Fuel Cell Technical Advisory Committee, 65542

Environmental Protection Agency

RULES

Approvals and Promulgations of Air Quality

Implementation Plans:

Illinois; Indiana; Michigan; Minnesota; Ohio; Wisconsin;

Infrastructure SIP Requirements for the 2006 PM_{2.5}

National Ambient Air Quality Standards; Indiana

NSR/PSD, 65478–65488

Maryland; Attainment Demonstration for 1997 8-Hour

Ozone National Ambient Air Quality Standard,

Philadelphia-Wilmington-Atlantic City Moderate

Nonattainment Area, 65488–65490

Virginia; Fredericksburg 8-Hour Ozone Maintenance Area

Revision to Approved Motor Vehicle Emissions

Budgets, 65490–65493

West Virginia; Amendments to West Virginia's Ambient

Air Quality Standards, 65493–65495

PROPOSED RULES

Approvals and Promulgations of Air Quality

Implementation Plans:

Delaware; Prevention of Significant Deterioration;

Greenhouse Gas Permitting Authority and Tailoring

Rule Revision, 65518–65520

West Virginia; Amendments to West Virginia's Ambient

Air Quality Standards, 65520–65521

Determinations of Attainment Regarding Applicability of

Clean Air Act Requirements:

California; San Francisco Bay Area Nonattainment Area

for 2006 Fine Particle Standard, 65521–65526

NOTICES

Meetings:

Farm, Ranch, and Rural Communities Committee;

Cancellation, 65547

Reissuance of the NPDES General Permits for Oil and Gas Exploration Facilities:
Outer Continental Shelf and Contiguous State Waters in the Beaufort Sea and on the Outer Continental Shelf in the Chukchi Sea, AK, 65547–65548

Equal Employment Opportunity Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65548–65549

Executive Office of the President

See Presidential Documents

See Trade Representative, Office of United States

Export–Import Bank

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65549–65550

Federal Aviation Administration

RULES

Amendments of Area Navigation Routes:

Q–1; CA, 65461–65462

Establishments of Class E Airspace:

La Belle, FL, 65462–65463

PROPOSED RULES

Airworthiness Directives:

Diamond Aircraft Industries GmbH Airplanes, 65503–65506

The Boeing Company Airplanes, 65501–65503, 65506–65508

NOTICES

Surplus Property Releases:

Harnett Regional Jetport, NC; Request for Comments, 65604

Federal Communications Commission

PROPOSED RULES

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities:

Structure and Practices of the Video Relay Service Program, 65526–65530

Federal Energy Regulatory Commission

RULES

Filing of Privileged Materials and Answers to Motions, 65463–65477

PROPOSED RULES

Annual Charge Filing Procedures for Natural Gas Pipelines, 65508–65512

Filing, Indexing and Service Requirements for Oil Pipelines, 65513–65518

NOTICES

Applications:

Eastern Shore Natural Gas Co., 65542–65543

Energy Corp. of America, Eastern American Energy Corp., and First ECA Midstream LLC, 65543–65544

Combined Filings, 65544

Complaints:

Dominion Resources Services, Inc. v. PJM Interconnection, LLC, 65544–65545

Tri-State Generation and Transmission Association, Inc. v. Western Electric Coordinating Council, et al., 65545

Exemption Transfers:

Jesse S. Capel and Hilton J. Cochran to EWP LLC, 65545

Filings:

Western Area Power Administration, 65545–65546

Petitions To Amend Authorizations:

Sabine Pass Liquefaction, LLC, and Sabine Pass LNG, L.P., 65546–65547

Federal Motor Carrier Safety Administration

RULES

Gross Combination Weight Rating; Definition; Withdrawal, 65497–65498

Federal Trade Commission

NOTICES

Proposed Consent Agreements:

Compete, Inc.; Analysis of Proposed Consent Order To Aid Public Comment, 65550–65552

Fish and Wildlife Service

NOTICES

Environmental Impact Statements; Availability, etc.:

Lake Andes National Wildlife Refuge Complex, Lake Andes, SD, 65574–65577

Food and Drug Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Public Health Service Guideline on Infectious Disease Issues in Xenotransplantation, 65560–65564

Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Retail and Foodservice Facility Types, 65555–65560

Foreign Assets Control Office

NOTICES

Blocked Persons and Property:

Designation of One Individual Pursuant to Executive Order 13566 of February 25, 2011, 65604–65605

General Services Administration

NOTICES

SES Performance Review Board:

Appointment of New Members, 65552

Health and Human Services Department

See Centers for Disease Control and Prevention

See Centers for Medicare & Medicaid Services

See Food and Drug Administration

See Indian Health Service

See National Institutes of Health

Homeland Security Department

See Coast Guard

Housing and Urban Development Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Healthy Homes and Lead Hazard Control Programs Data Collection—Progress Reporting, 65574

HOME Investment Partnerships Program, 65571–65573
Title I Property Improvement and Manufactured Home Loan Programs, 65573–65574

Indian Health Service

See Indian Health Service

NOTICES

Privacy Act; Systems of Records, 65564–65567

Interior Department

See Fish and Wildlife Service
See National Park Service

Internal Revenue Service**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Form 2220, 65606–65607
Form 9117, 65607
Notice 97–45, 65605
Regulation Project, 65605–65606, 65608
Revenue Ruling 2000–35, 65608–65609

International Trade Administration**NOTICES**

Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Solid Fertilizer Grade Ammonium Nitrate from Russian Federation, 65532–65533

International Trade Commission**NOTICES**

Complaints:
Certain Hydroxyprogesterone Caproate and Products Containing the Same, 65578–65579
Investigations:
Certain Devices for Improving Uniformity Used in Backlight Module and Components Thereof and Products Containing Same, 65579
Terminations of Investigations:
Certain Wireless Communication Devices, Portable Music and Data Processing Devices, Computers, etc., 65580

Labor Department

See Employment and Training Administration
See Labor Statistics Bureau

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Overpayment Recovery Questionnaire, 65580–65581
Meetings:
Labor Advisory Committee for Trade Negotiations and Trade Policy, 65581

Labor Statistics Bureau**NOTICES**

Renewal of the Bureau of Labor Statistics Data Users Advisory Committee, 65585–65586

Merit Systems Protection Board**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Emergency Reinstatement, 65586–65587

National Aeronautics and Space Administration**RULES**

Commercial Acquisition; Anchor Tenancy, 65496–65497

PROPOSED RULES

Extension of Suspension and Debarment Exclusions, Grants and Cooperative Agreements, 65500

National Foundation on the Arts and the Humanities**NOTICES**

Meetings:
National Council on the Humanities, 65587–65588

National Institutes of Health**NOTICES**

Meetings:
Center for Scientific Review, 65567–65570
National Heart, Lung, and Blood Institute, 65568–65569
National Institute on Aging, 65569–65570

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Northeastern United States:
Atlantic Herring Fishery; Adjustment to the Atlantic Herring Management Area 1A Sub-Annual Catch Limit, 65498–65499

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Estuarine Research Reserve System Science Collaborative Evaluation, 65533–65534
Applications for Exempted Fishing Permt:
Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries, 65534–65535
Meetings:
North Pacific Fishery Management Council, 65535–65536
South Atlantic Fishery Management Council, 65536
Solicitation of Applications for the Ocean Exploration Advisory Board, 65536–65537

National Park Service**NOTICES**

Concession Contracts; Continuations, 65577–65578

Office of United States Trade Representative

See Trade Representative, Office of United States

Patent and Trademark Office**NOTICES**

Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, 65537–65539

Postal Regulatory Commission**NOTICES**

New Postal Products, 65588–65591

Postal Service**NOTICES**

Product Changes:
First-Class Package Service Negotiated Service Agreement, 65591–65592

Presidential Documents**PROCLAMATIONS**

Special Observances:
United Nations Day (Proc. 8893), 65459–65460

ADMINISTRATIVE ORDERS

Brazil; Drug Interdiction Assistance (Presidential Determination)
No. 2013–01 of October 11, 2012, 65457
Burma; International Financial Institution Assistance, Delegation of Functions (Memorandum of October 10, 2012), 65455

Securities and Exchange Commission**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65592–65593
Applications:
PNC Capital Advisors, LLC, et al., 65593–65596

Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 65600–65602
NASDAQ Stock Market LLC, 65596–65600
Suspension of Trading Orders:
Chimera Energy Corp., 65602

State Department**RULES**

Repeal of Regulations on Marriages, 65477–65478

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

INTERNationalConnections, 65602–65603

Culturally Significant Objects Imported for Exhibition:

Inventing Abstraction, 1910–1925, 65603

Trade Representative, Office of United States**NOTICES**

Determination Regarding Waiver of Discriminatory
Purchasing Requirements:

Respect to Goods and Services Covered by Chapter Nine
of the United States-Panama Trade Promotion
Agreement, 65603–65604

Transportation Department

See Federal Aviation Administration

See Federal Motor Carrier Safety Administration

Treasury Department

See Foreign Assets Control Office

See Internal Revenue Service

Veterans Affairs Department**NOTICES**

Meetings:

Advisory Committee on Prosthetics and Special-
Disabilities Programs, 65609

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.

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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.

2 CFR**Proposed Rules:**

1880.....65500

3 CFR**Proclamations:**

8893.....65459

Administrative Orders:**Memorandum:****Memorandum of**

October 10, 201265455

Presidential**Determination:****No. 2013-01 of**

October 11, 201265457

14 CFR

71 (2 documents)65461,
65462

Proposed Rules:

39 (3 documents)65501,
65503, 65506

18 CFR

4.....65463

5.....65463

16.....65463

33.....65463

34.....65463

35.....65463

157.....65463

348.....65463

375.....65463

385.....65463

388.....65463

Proposed Rules:

154.....65508

341.....65513

22 CFR

52.....65477

33 CFR

165.....65478

40 CFR

52 (4 documents)65478,
65488, 65490, 65493

Proposed Rules:

52 (3 documents)65518,
65520, 65521

42 CFR

412.....65495

413.....65495

424.....65495

476.....65495

47 CFR**Proposed Rules:**

64.....65526

48 CFR

1812.....65496

49 CFR

383.....65497

390.....65497

50 CFR

648.....65498

Presidential Documents

Title 3—**Memorandum of October 10, 2012****The President****Delegation of Functions to the Secretary of State To Support Assistance by International Financial Institutions for Burma****Memorandum for the Secretary of State**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions of the President under section 1 of H.R. 6431, 112th Congress (2012), an act to “provide flexibility with respect to United States support for assistance provided by international financial institutions for Burma, and for other purposes,” which I signed into law on October 5, 2012.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, October 10, 2012

Presidential Documents

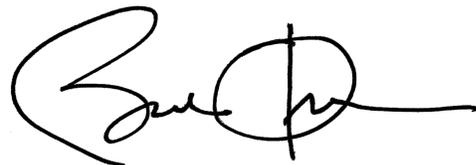
Presidential Determination No. 2013-01 of October 11, 2012

Provision of U.S. Drug Interdiction Assistance to the Government of Brazil

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 1012 of the National Defense Authorization Act for Fiscal Year 1995, as amended (22 U.S.C. 2291-4), I hereby certify, with respect to Brazil, that (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) that country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft.

The Secretary of State is authorized and directed to publish this determination in the *Federal Register* and to notify the Congress of this determination.



THE WHITE HOUSE,
Washington, October 11, 2012

Presidential Documents

Proclamation 8893 of October 24, 2012

United Nations Day, 2012

By the President of the United States of America

A Proclamation

Sixty-seven years ago, as the world began to emerge from the shadows of war, the 51 founding member states of the United Nations came together to take up the new test of forging a lasting peace. In a decade scarred by genocide, the United Nations chose the hope of unity over the ease of division, boldly promising to future generations that the dignity and equality of human beings would be our common cause. Today, we commemorate United Nations Day by celebrating the founding ideals laid down in its Charter and reaffirming the commitments to peace building, human rights, and social progress that will guide us in the years to come.

Throughout its history, the United Nations Charter has reflected the belief that the world is more secure when the global community acts collectively. Dedicated to assuring “the equal rights of men and women and of nations large and small,” the institution has played an essential role in addressing the conditions that make the world more just and conflict less likely—caring for children, tending to the sick, and pursuing peace in places wracked by conflict. In today’s world, this mission remains as vital as it has ever been. Across the globe, people are making their voices heard. They are insisting on their innate dignity and the right to determine their future. The United States will always stand up for these aspirations at home and abroad, and we will join our global partners in working to realize them.

Through the better part of a century, we have seen what is possible when a strong and united international community takes action to advance the interests and values we share. The founding values of the United Nations remind us that countries can resolve their differences peacefully, and that all people deserve the chance to seek their own destiny, free from fear and empowered with their most fundamental rights. As we recognize this 67th anniversary of the United Nations, let us recommit to carrying that vision forward in the years ahead.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 24, 2012, as United Nations Day. I urge the Governors of the 50 States, and the officials of all other areas under the flag of the United States, to observe United Nations Day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B', a cursive 'a', and a stylized 'O' with a vertical line through it, followed by a horizontal stroke.

Rules and Regulations

Federal Register

Vol. 77, No. 209

Monday, October 29, 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.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA-2012-1049; Airspace

Docket No. 12-ANM-12

RIN 2120-AA66

Amendment of Area Navigation Route Q-1; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends the legal description of area navigation (RNAV) route Q-1 by adding two waypoints along the route. In addition, the route description is amended to match a standardized format by adding the appropriate state name to the waypoints, the name and the state of the Point Reyes, CA, navigation aid, and listing of the points in the proper order.

DATES: *Effective Date:* 0901 UTC, January 10, 2013. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Background

RNAV route Q-1 extends along the U.S. west coast between the Point Reyes, CA, VHF omnidirectional range/tactical air navigation (VORTAC) aid and the ELMAA, WA, waypoint. The FAA is adding two waypoints along to

route for air traffic control purposes. In addition, the route description is reformatted for standardization.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the legal description of RNAV route Q-1 to add two waypoints along the route and to standardize the description format. The ELENN, CA, waypoint is inserted between the existing ENVIE, CA, and EBINY, OR, waypoints for traffic flow metering with the Oakland Air Route Traffic Control Center. The TACOS, CA, waypoint is added between the existing ETCHY, CA, and ENVIE, CA, waypoints to provide connectivity with an RNAV arrival to Travis Air Force Base.

In addition, the order of the points as listed in the description of FAA Order 7400.9 is reversed to comply with the standard format that the points be listed from south-to-north. Also, the state names are added to the waypoint and the navigation aid names to comply with the standard format.

Since this action involves only editorial changes to the legal description of RNAV route Q-1, and does not change the dimensions or operating requirements of the affected route, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it revises the legal description of an RNAV route to maintain currency.

United States Area Navigation Routes are published in paragraph 2006 of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be published subsequently in the Order.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, paragraph 311a. This airspace action consists of editorial changes only and is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, and

effective September 15, 2012, is amended as follows:

Paragraph 2006 United States area navigation routes
* * * * *

Q-1 Point Reyes, CA to ELMAA, WA [Amended]

Point Reyes, CA (PYE)	VORTAC	(Lat. 38°04'47" N., long. 122°52'04" W.)
ETCHY, CA	WP	(Lat. 39°05'28" N., long. 123°08'05" W.)
TACOS, CA	WP	(Lat. 39°57'32" N., long. 123°10'28" W.)
ENVIE, CA	WP	(Lat. 41°20'09" N., long. 123°12'32" W.)
ELENN, CA	WP	(Lat. 41°37'10" N., long. 123°13'07" W.)
EBINY, OR	WP	(Lat. 42°28'50" N., long. 123°15'01" W.)
EASON, OR	WP	(Lat. 44°30'00" N., long. 123°19'44" W.)
ERAVE, WA	WP	(Lat. 46°54'35" N., long. 123°24'06" W.)
ELMAA, WA	Fix	(Lat. 47°08'53" N., long. 123°24'35" W.)

Issued in Washington, DC, on October 16, 2012.

Gary A. Norek,
Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2012-26332 Filed 10-26-12; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2012-0586; Airspace Docket No. 12-ASO-29]

Establishment of Class E Airspace; La Belle, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E Airspace at La Belle, FL, to accommodate the new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures at La Belle Municipal Airport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations within the National Airspace System.

DATES: Effective 0901 UTC, January 10, 2013. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P. O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-6364.

SUPPLEMENTARY INFORMATION:

History

On July 5, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to

establish Class E airspace at La Belle, FL (77 FR 39652) Docket No. FAA-2012-0586. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9W dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface at La Belle, FL, to provide the controlled airspace required to accommodate the new RNAV GPS Standard Instrument Approach Procedures developed for La Belle Municipal Airport. This action is necessary for the safety and management of IFR operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at La Belle Municipal Airport, La Belle, FL.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71:

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71 —DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation

Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, effective September 15, 2012, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO FL E5 La Belle, FL [New]

La Belle Municipal Airport, FL
(lat. 26°44'26" N., long. 81°25'42" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of La Belle Municipal Airport.

Issued in College Park, Georgia, on October 11, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012-26333 Filed 10-26-12; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4, 5, 16, 33, 34, 35, 157, 348, 375, 385 and 388

[Docket No. RM12-2-000; Order No. 769]

Filing of Privileged Materials and Answers to Motions

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: In this Final Rule, the Commission revises its rules and regulations relating to the filing of privileged material in keeping with the Commission's efforts to comply with the Paperwork Reduction Act, the Government Paperwork Elimination Act and the E-Government Act of 2002. First, the Commission establishes two categories of privileged material for filing purposes: Privileged material and critical energy infrastructure information. This revision will expand the ability to file electronically by permitting electronic filing of materials subject to Administrative Law Judge protective orders as appropriate. Second, the Commission revises its regulations to provide a single set of uniform procedures for filing privileged materials. These revisions continue the Commission's effort to reassess and

streamline its regulations to ensure that they are efficient, effective and up to date.

Also, the Commission revises Rule 213(d) of its Rules of Practice and Procedure, which establishes the timeline for filing answers to motions, to clarify that the standard fifteen day reply time will not apply to motions requesting an extension of time or a shortened time period for action. Instead, the Commission proposes to set the time for responding to such motions at five days, unless another time period is established by notice based on the circumstances.

DATES: *Effective Date:* This final rule is effective December 28, 2012.

FOR FURTHER INFORMATION CONTACT: Christopher Cook (Technology/Procedural Information), Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502-8102. Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502-8744.

SUPPLEMENTARY INFORMATION:

Order No. 769

Final Rule

Table of Contents

	Paragraph Nos.
I. Background	3
A. Electronic Filing Procedures	3
B. Notice of Proposed Rulemaking and Comments	9
II. Regulations for Filing Privileged Materials	12
A. Designation of Confidential Materials as "Privileged"	20
1. Comments	21
2. Commission Response	22
B. Establishing Separate Regulations Governing CEII Information	24
C. Form and Use of Protective Agreement	29
1. Comments	30
2. Commission Response	36
D. Consistency With Discovery Procedures Used in Administrative Proceedings	44
1. Comments	45
2. Commission Response	46
E. Procedures for Distributing Privileged Information	48
1. Comments	49
2. Commission Response	55
F. NERC Notices of Penalty and Other Communications	61
1. Comments	61
2. Commission Response	64
G. Electronic Filing Procedures	66
H. Prospective Effect	68
I. Changes to Text of Proposed Regulations	70
1. Changes Adopted	71
2. Proposed Changes Not Accepted	77
III. Revised Time for Filing Answers to Motions for Extensions of Time or Expedited Action Dates	81
1. Comments	83
2. Commission Response	85
IV. Information Collection Statement	88
V. Environmental Analysis	91
VI. Regulatory Flexibility Act	92

VII. Document Availability 94
 VIII. Effective Date and Congressional Notification 97
 List of Subjects
 Regulatory Text

Order No. 769

Final Rule

Issued October 18, 2012.

1. In this Final Rule, the Commission revises its rules and regulations relating to the filing of privileged material in keeping with the Commission's efforts to comply with the Paperwork Reduction Act, the Government Paperwork Elimination Act and the E-Government Act of 2002. First, the Commission establishes two categories of privileged material for filing purposes: privileged material and critical energy infrastructure information (CEII). This revision will expand the ability to file electronically by permitting electronic filing of materials subject to Administrative Law Judge (ALJ) protective orders as appropriate. Second, the Commission revises its regulations to provide a single set of uniform procedures for filing privileged materials. These revisions continue the Commission's effort to reassess and streamline its regulations to ensure that they are efficient, effective and up to date.

2. Also, the Commission revises Rule 213(d) of its Rules of Practice and Procedure, which establishes the timeline for filing answers to motions, to clarify that the standard fifteen day reply time will not apply to motions requesting an extension of time or a shortened time period for action. Instead, the Commission proposes to set the time for responding to such motions at five days, unless another time period is established by notice based on the circumstances.

I. Background

A. Electronic Filing Procedures

3. In 2000, the Commission first permitted filers to use the Internet to submit documents to the Commission.¹ Such submissions were limited to categories of documents specified by the Secretary of the Commission (Secretary), with the intention of gradually expanding the range of eligible documents.² In 2007, the Commission implemented eFiling 7.0 which

permitted a much broader range of documents to be submitted through the eFiling interface.³ In 2008, the Commission, in collaboration with the wholesale electric and gas quadrants of the North American Energy Standards Board and representatives from the Association of Oil Pipelines, implemented a set of standards to be used by companies in electronically filing tariff and tariff-related documents at the Commission.⁴ Under the Commission's regulations, only "qualified documents" may be filed via the Internet, and the Secretary is authorized to specify which documents are qualified and to issue filing instructions.⁵ A list of qualified documents is published on the Commission's Web site.⁶

4. The eFiling system plays an important role in the Commission's efforts to comply with the Government Paperwork Elimination Act, which requires that agencies provide the option to submit information electronically, when practicable, as a substitute for paper.⁷ Users of the Commission's eFiling system and related activities must register electronically through the Commission's eRegistration system.⁸ Filing via the Internet is optional for eligible documents.⁹ The eFiling system now is receiving a substantial majority of all documents filed at the Commission. The system is accessible through the Commission's Web site at <http://www.ferc.gov/docs-filing/efiling.asp>.

5. [Paragraph blank]

6. Currently, the Commission accepts through electronic filing all documents, including privileged material and CEII,¹⁰ except for documents submitted

pursuant to an ALJ's protective order and some forms.¹¹ The Commission's current procedures for submitting materials subject to ALJ protective orders require filers to submit an original copy of the document in hard copy or on electronic media, along with the requisite number of copies, pursuant to section 388.112 of the Commission's regulations. While the Commission permits electronic filing of documents subject to a claim of privilege not subject to an ALJ protective order, the Commission currently does not have a standard set of procedures for submitting such documents.

7. The Commission's current complaint and answer regulations (sections 385.206 and 385.213) contain detailed requirements for submitting privileged materials. Under these regulations, a party filing a complaint or an answer with privileged and/or confidential material is required to submit a request for privileged treatment of documents, a public redacted document, a privileged unredacted document, and a proposed form of protective agreement.¹² The filer must serve the public, redacted copy on appropriate parties and other entities required to be served and must provide a copy of the non-public, unredacted material to any participant or entity whose name is on the official service list (compiled by the Secretary) and who has signed the protective agreement.

8. In recent years, the Commission has been receiving a larger number of requests for privileged treatment of documents not associated with

¹ ¶ 31,147, at P 65 (2003) (providing that privileged material and CEII may be filed under 18 CFR 388.112 on electronic media—including compact discs, computer diskettes, and tapes—and noting that the Commission would accept non-public documents through its electronic filing process at some point in the future).

² Order No. 703, FERC Stats. & Regs. ¶ 31,259 at P 9. The following are submitted through eForms: FERC Form No. 1, FERC Form No. 2, FERC Form No. 2-A, FERC Form No. 3-Q, FERC Form No. 6, FERC Form No. 6-Q, FERC Form No. 60, FERC Form No. 714, and Electric Quarterly Reports. FERC Form 1-F is currently not included in eForms.

³ See *Astoria Generating Co., L.P. v. New York Independent System Operator, Inc.*, 136 FERC ¶ 61,155, at P 25 (2011) (*Astoria*). The Commission's filing requirements for CEII and privileged material are provided in the "Submission Guidelines" available via the eFiling link on the Commission's Web site at <http://www.ferc.gov>.

³ *Filing Via the Internet*, Order No. 703, FERC Stats. & Regs. ¶ 31,259 (2007) (amending Rule 2003(c)).

⁴ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

⁵ Rule 2003(c), 18 CFR 385.2003(c); Rule 2003(c)(1)(ii), 18 CFR 385.2003(c)(1)(ii); see <http://www.ferc.gov/docs-filing/efiling/user-guide.asp>.

⁶ See <http://www.ferc.gov/docs-filing/efiling/docs-efiled.asp>.

⁷ Public Law 105-277, Sec. 1702-1704 (1998); see OMB Circular A-130 Paragraph 8.a.1(k).

⁸ 18 CFR 390.1 and 18 CFR 390.2.

⁹ Rule 2001(a) of the Commission's Rules of Practice and Procedure, 18 CFR 385.2001(a).

¹⁰ See *Critical Energy Infrastructure Information*, Order No. 630, FERC Stats. & Regs. ¶ 31,140, *order on reh'g*, Order No. 630-A, FERC Stats. & Regs.

¹ *Electronic Filing of Documents*, Order No. 619, 65 FR 57088 (Sept. 21, 2000), FERC Stats. & Regs. ¶ 31,107 (2000).

² See Rule 2003(c) of the Commission's Rules of Practice and Procedure, 18 CFR 385.2003(c).

complaints or answers.¹³ The request for privileged treatment has in some cases delayed the ability of the Commission to process such filings because the Commission was required to issue special orders or notices to ensure that parties could obtain access to the privileged material they needed in order to be able to participate in the proceeding.¹⁴ Particularly, in cases involving statutory deadlines, such delays affect the ability of parties to submit timely, well informed comments, as well as the Commission's ability to process those comments.

B. Notice of Proposed Rulemaking and Comments

9. In its December 16, 2011 Notice of Proposed Rulemaking (NOPR), the Commission proposed to revise its regulations to address two outstanding concerns.¹⁵ First, the Commission proposed uniform procedures for filing privileged materials in any proceeding in which a right of intervention exists. The Commission proposed to (a) provide two categories of privileged material for filing purposes, namely categories for CEII and all other privileged materials, (b) set up uniform procedures for filing and accessing privileged materials in most proceedings with a right to intervene, based upon the current complaint/answer process in Rules 206 and 213,¹⁶ and (c) consolidate the Commission's regulations for submitting privileged materials in proposed section 388.112.

10. Second, the Commission proposed to revise its answer regulations, Rule 213, to provide an opportunity for parties to file answers to requests for extension of the time to take action under the Commission's orders and regulations or seeking expedited action where the time to act on these requests may fall sooner than the standard 15 day answer date. To provide an opportunity for interested parties to respond and facilitate the Commission's response to such motions, the Commission proposed to shorten the answer period for these motions to five business days. In addition, the

Commission proposed conforming revisions, in particular, revisions to the Secretary's delegated authority under 18 CFR 375.302(b), to clarify the Secretary's authority to address shortened answer periods for requests for extension of time, consistent with the delegated authority of other office directors.¹⁷

11. In response to the NOPR, American Public Gas Association (APGA), Edison Electric Institute (EEI), Electric Power Supply Association (EPSA), Interstate Natural Gas Association (INGA), International Transmission Co. (ITC), MidAmerican Energy Holdings Company (MidAmerican), North American Electric Reliability Corp. (NERC), PJM Interconnection, L.L.C. and Transmission Dependent Utility Systems (TDU)¹⁸ submitted comments. EPSA and PJM support the Commission's proposal to consolidate and establish uniform procedures for filing privileged materials and establish two categories for filing purposes, citing efficient and easily implemented procedures to allow market participants to designate materials as confidential and provide assurance that commercially sensitive and other confidential information will be safe from inadvertent disclosure, without the need for procedural orders. The Commission will address other concerns raised in the comments in the discussion below.

II. Regulations for Filing Privileged Materials

12. In this Final Rule, the Commission largely adopts the NOPR proposal to consolidate the Commission's regulations for filing privileged materials in section 388.112 and establish procedures in that section for distribution of such materials pursuant to a protective agreement in proceedings with a right to intervene. The protective agreement provisions largely parallel the existing regulations governing complaints and answers. These regulations will expand those procedures to cover other types of filings, such as statutory public utility or pipeline filings, and protests in those filings, containing confidential information. With these revisions, the Commission is taking advantage of the technologies available to the Commission to safely and securely accept materials by designating them as

privileged, while providing for limited use of the materials in proceedings in which other parties must review the materials, by requiring the filing party to make them available pursuant to a protective agreement. In instances where the filer elects to electronically file materials with a protective agreement, submission of the identical hard copy files to the Commission will no longer be necessary. Permitting privileged materials to be submitted via eFiling will facilitate entry of the documents into the Commission's document repository, eLibrary, and will make them available to staff conducting analysis of the documents. Electronic filing will simplify retrieval of the documents in the course of the Commission's duties because the documents may be accessed via the Commission electronic archive in eLibrary, and Commission staff will no longer have to retrieve hard copy documents from offsite document storage. This will avoid the resulting delay in obtaining materials.

13. The consolidated filing procedures, as well as the protective agreement provisions for proceedings in which a right to intervene exists are included in revised section 388.112. Revised section 388.112(a)(1) adopts the Commission's long-standing usage of the term "privileged materials" to refer to information subject to an outstanding claim of exemption from mandatory disclosure under the Freedom of Information Act (FOIA), including CEII.¹⁹ The changes adopted in this rule retain the disclaimer that by permitting the filing of privileged materials and treating the documents for which a privilege is claimed as nonpublic, the Commission is not making a determination on the merits as to any claim of privilege or CEII status.²⁰ Revised section 388.112(b) retains the requirement that a filer include a justification for privileged treatment in its filing, following the procedures posted on the Commission's Web site.²¹ Revised section 388.112(b)(1) requires a person requesting privileged or CEII treatment to designate the material as privileged or CEII in an electronic filing, or clearly indicate a request for privileged treatment on a paper filing, with headings indicating privileged and

¹⁹ See also 18 CFR 388.107(g); 18 CFR 388.113(c) (defining CEII as information that is exempt from mandatory disclosure under FOIA, providing that CEII be filed under section 388.112(b), and establishing specific procedures for making CEII available pursuant to a non-disclosure agreement).

²⁰ See revised section 388.112(c)(i).

²¹ See the Submission Guidelines on the Documents and Filing link at <http://www.ferc.gov>.

¹³ See *ANR Pipeline Co.*, 129 FERC ¶ 61,080 (2009); *PPL Montana, LLC*, 113 FERC ¶ 61,231 (2005).

¹⁴ See *West Deptford Energy, LLC*, 134 FERC ¶ 61,189 (2011) (denying request to limit parties' rights to see documents). See also *PPL Montana, LLC*, 113 FERC ¶ 61,231 (2005); *PJM Interconnection, L.L.C.*, Notice of Filing, Docket No. ER05-10-000 (May 6, 2005); *PJM Interconnection, L.L.C.*, Notice of Filing, Docket No. ER04-539-002 (April 30, 2004).

¹⁵ *Filing of Privileged Materials and Answers to Motions*, Notice of Proposed Rulemaking, 76 FR 80838 (Dec. 27, 2011) (NOPR), FERC Stats. & Regs. ¶ 32,685 (2011).

¹⁶ 18 CFR 385.206-213.

¹⁷ See, e.g., 18 CFR 375.307(b)(1)(ii).

¹⁸ Consisting of Arkansas Electric Coop. Corp., Golden Spread Electric Coop., Inc., Kansas Electric Power Coop., Inc., North Carolina Electric Membership Corp., Power South Energy Coop. and Seminole Electric Coop., Inc.

CEII material.²² Section 388.112(b)(1) states that a person requesting that a document filed with the Commission be treated as privileged or CEII must designate the document as privileged or CEII in making an electronic filing or clearly indicate a request for such treatment on a paper filing. The header of the first page of the cover sheet or transmittal letter and of the pages or portions of the document containing material for which privileged treatment is claimed should be clearly labeled in bold, capital lettering, indicating that it contains privileged, confidential and/or Critical Energy Infrastructure Information, as appropriate, and marked "DO NOT RELEASE."

This means that, when a person files a document containing privileged material, that person must prominently indicate the fact that the filing contains privileged material, using an appropriate header on the cover page of the filing. In most cases, the header must be included on the accompanying filing letter or first page of a pleading or motion, and on the separate cover of any portion of the document that contains privileged material, such as an affidavit, exhibit, attachment, etc. In addition, the individual pages should be marked to indicate that the page contains privileged material, and the material identified on the page.

14. The revised regulations make special provision in proceedings featuring a right to intervene, including complaint, certificate, merger and rate filings, to facilitate review of the privileged materials by intervening parties. In such proceedings, a person filing privileged material is required to include a public, redacted copy of the filing and a proposed form of protective agreement and serve these items on the appropriate persons, that is, those required by Commission rule or order, or by law.²³ The revised regulations provide that the filing person will thereafter provide a copy of the privileged materials to interveners that request the material and execute the protective agreement within five days or file an objection.²⁴

15. The Commission's Model Protective Order may be used as a guide

²² This provision follows the Commission's existing practice for filing privileged materials in complaint proceedings in Rule 206, 18 CFR 385.206.

²³ Revised section 388.112(b)(2). Under revised section 388.112(b)(2)(ii) service is to be made to persons to be served under Rule 206(c), 18 CFR 385.206(c) (complaints) or Rule 213, 18 CFR 385.213(c)(5) (answers), or otherwise as appropriate.

²⁴ Trial Staff, as identified in 18 CFR 385.102(b)(2), should be treated similarly to other persons making a request.

for protective agreements, and the Commission's prior orders may also provide guidance as to how to address particular confidentiality concerns.²⁵ The protective agreement should be self implementing and not require action or approval by the Commission. That is, persons wishing to rely on privileged material to support their filings should make provision for timely and adequate review of these materials under the protective agreement by intervening parties. While the Commission will resolve disputes to the extent necessary to carry out its statutory duties, the Commission intends that these standardized procedures will minimize the need for Commission action, with the accompanying delay in processing filings and applications subject to the Commission's jurisdiction. Where a person wishing to use privileged materials has reason to anticipate objection or difficulty in such disclosure and review, it may be appropriate to negotiate in advance with likely intervenors and attempt to resolve any disputes and come to agreement prior to making the filing. If acceptable terms for use of the material in a proceeding are negotiated prior to filing, the possibility of delay in processing the filing may be avoided.

16. The public version of the filing should be prepared with only the privileged information redacted to the extent practicable. If a document or filing contains both public and privileged material, the Commission expects filers to file a public version in which the privileged material has been removed or redacted thereby making the non-privileged portion of a document available for use by the Commission and participants in the proceeding.²⁶

17. The revised regulations incorporate exceptions for landowner lists, certain cultural resources and liquefied natural gas facility (LNG) information, and proceedings set for hearing or settlement procedures in accordance with the Commission's Rules of Practice and Procedure.²⁷ Thus,

²⁵ The Model Protective Order developed by the Commission's Office of Administrative Litigation is available at <http://www.ferc.gov/legal/admin-lit/model-protective-order.doc>. See also *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252, at P 393 (2007).

²⁶ *Astoria*, 136 FERC ¶ 61,155 at P 25 (requiring the submission of a public redacted copy of documents that contain both privileged and public information).

²⁷ Under revised section 388.112(b)(2)(v), a participant's access to privileged material submitted in a trial-type hearing or for settlement purposes continues to be governed by the presiding official's protective order, according to policies established by the Commission's Office of Administrative Law

filers are not automatically required to provide intervenors with such material.²⁸ The revised regulations retain procedures to address practical and confidentiality concerns with the submission of these materials, due to difficulty in copying and manipulating the material (i.e., maps or spreadsheets presenting voluminous data). To that end, the revised regulations retain provisions permitting the Commission to request full size maps in licensing applications under section 4.32(d) of its rules and regulations.²⁹

18. Conforming changes were made throughout the Commission's regulations, including revisions to reflect that section 388.112 provides the procedures for filing privileged materials. To simplify and clarify the regulations, the Commission largely avoided directly referencing section 388.112. Since section 388.112 is intended to apply to all submittals and filings containing privileged or CEII material, it is unnecessary to specify the provision that applies in the many parts of the regulations that refer to filing of privileged materials.³⁰ Consequently, we adopt the NOPR proposals to remove duplicate provisions for filing privileged materials and consolidate and adopt the proposed provisions relating to submittal of and access to privileged material in section 388.112, as revised and discussed below.³¹

19. The Commission responds to the comments filed in response to the NOPR below.

Judges. See Part 385 of the Commission's Rules of Practice and Procedure, Subpart D, 18 CFR 385.401, *et seq.* (hearing procedures), and 18 CFR 385.602, *et seq.*

²⁸ See revised section 388.112(b)(2)(vi); see also *Columbia Gas Transmission Corp.*, 128 FERC ¶ 61,050, at P 32 (2009) (finding insufficient need to disclose storage field maps and landowner lists).

²⁹ 18 CFR 4.32(d). Landowner lists, cultural resource information required in sections 380.12(f) and 380.16(f), LNG information filed under sections 380.12(m) and (o), forms filed with the Commission and other documents not covered under proposed section 388.112 disclosure provisions may be sought pursuant to a FOIA or CEII request, in accordance with section 388.108 or section 388.113, as applicable.

³⁰ Changes to consolidate and supersede current procedures for filing privileged material are made to 18 CFR 33.8(a) and 33.9 (merger procedures), 18 CFR 35.37(f) (market based rate applications), 18 CFR 34.7 (filing requirements for application for approval of issuance of securities and assumptions of liabilities), 18 CFR 348.2(a) (oil pipeline market power application procedures), Rule 206, 18 CFR 385.206(e) (complaint procedures), and Rule 213, 18 CFR 385.213(c)(5) (answers). In addition, changes for clarity and to reflect the consolidation of privileged filing procedures are made to 18 CFR 4.39(e), 5.29(c), 16.8(g), 157.21(h), 157.34(d)(4), and 385.606(f) and (j), and changes are proposed to 18 CFR 388.113(d)(1) and (2) to reference procedures in paragraph (d)(4).

³¹ In certain instances, we have kept the reference as a guide to practitioners in a particular Commission program.

A. Designation of Confidential Materials as "Privileged"

20. In the NOPR, the Commission proposed to continue its long-standing practice of referring to confidential material as privileged.

1. Comments

21. A number of commenters object to the scope of the revised regulations, arguing that the privileged filing procedures, in particular the disclosure procedures developed for proceedings with a right to intervene, should not apply to materials eligible for common law evidentiary privileges such as attorney-client or work product privileges or CEII, which are subject to the disclosure procedures in 18 CFR 388.113.

2. Commission Response

22. The Commission disagrees with suggestions made by EEI and INGAA that use of the term privilege detracts from a filing party's ability to assert a common law evidentiary privilege. The Commission's power to withhold information from mandatory public disclosure is established by FOIA and presented in its rules and regulations, chiefly 18 CFR 388.107. The Commission's long-standing practice has been to refer to materials subject to an outstanding claim of exemption from mandatory disclosure as privileged.³² The Commission is not aware of any confusion arising out of use of this term with materials claimed to be subject to a common law privilege, confidential business trade secrets or CEII. These types of materials are already addressed in the Commission's FOIA regulations in the categories of materials for which a filer may request an exemption from mandatory disclosure under FOIA.³³

³² E.g., *Revision of Freedom of Information Act Rules*, Order No. 488, FERC Stats & Regs ¶ 30,789 (1988) (establishing rules for requesting privileged treatment of documents claimed to be exempt from mandatory disclosure under FOIA).

³³ In particular, see 18 CFR 388.107(d) (incorporating FOIA exemption 4 for trade secrets and commercial or financial information obtained from a person that are privileged or confidential); 18 CFR 388.107(g) (records or information compiled for law enforcement purposes, including information that could interfere with enforcement proceedings or deprive a person of a right to fair trial, if produced). See also *Cargill, Inc. v. Saltville Gas Storage Co., L.L.C.*, 99 FERC ¶ 61,043, at PP 12–13 (2002) (describing privileged treatment under section 388.107(d) and FOIA exemption 4); *Critical Energy Infrastructure Information*, Order No. 630, FERC Stats. & Regs. ¶ 31,140, at P 14, *order on reh'g*, Order No. 630–A, FERC Stats. & Regs. ¶ 31,147 (2003) (discussing privileged treatment for CEII under FOIA exemption 4, and exemption 2 for "records related solely to the internal personnel rules and practices of an agency" and exemption 7 for certain law enforcement information, including information which might jeopardize a person's life or safety, if disclosed).

23. The Commission likewise disagrees with EEI's and INGAA's suggestions that failure to make separate provision for information subject to a claim of common law privilege will create a risk of improper disclosure and loss of privilege.³⁴ Indeed, as we stated in the NOPR, the term privileged material "is not intended to detract from any person's right to assert a common law privilege, e.g., attorney-client or attorney work product privilege."³⁵ More importantly, the Commission is not requiring any filing party to submit materials that are subject to an evidentiary privilege in support of their filings or any confidential material. The choice whether to include such materials is left to the person making the filing whether to rely on such materials subject to the protective agreement disclosure provisions established in this Final Rule.³⁶ If a party is asked to produce information in an investigation or discovery request that it believes is subject to a common law privilege, the proper course of action is to file a notice of that party's objection to producing the document, identifying the document and the justification of the claim, to facilitate review of the claim of privilege in a confidential setting to determine if the claim is justified.³⁷

B. Establishing Separate Regulations Governing CEII Information

24. In the NOPR, the Commission proposed to retain its current regulations (sections 285.206, 385.213 and 388.112) under which privileged and CEII information are subject to the same requirements with respect to disclosure.

25. EEI contends that CEII should be a separate category subject to separate disclosure procedures, as provided for in 18 CFR 388.113.

26. We do not find that using the same regulatory framework for "privileged materials" and "CEII" in section 388.112 will cloud the

procedures in 18 CFR 388.113 for handling CEII or that continuation of these procedures will not provide adequate protection for CEII. The Commission's regulations specify that to qualify as CEII, the material must be "exempt from mandatory disclosure under the Freedom of Information Act."³⁸ Thus, CEII is already a subset of privileged material under the Commission's regulations. Any party relying on CEII information in a filing needs to be prepared to provide that information to intervenors that need the information to understand the filing.

27. We also disagree with EEI that CEII should be treated separately and distributed within a Commission proceeding under procedures modeled after the current CEII procedures in 18 CFR 388.113, providing for review of privilege requests with a determination.³⁹ A filing party that has reason to question whether a party has a legitimate need to review information in a Commission proceeding may file an objection to disclosure to that person under section 388.112(b)(2)(iii),⁴⁰ which is equivalent to the existing and retained provision for notice of FOIA requests in section 388.112(d).⁴¹

28. The Commission is not changing its rules for acquiring materials through a FOIA or CEII request, and materials that may be sought through the protective agreement procedures established herein also remain available through FOIA and CEII requests where appropriate. However, the Commission has determined that reliance on the existing CEII procedures exclusively would serve to delay the processing of filings and other pleadings in Commission proceedings. To facilitate timely distribution of materials without the potential for delay pending Commission review, participants who choose to submit CEII information as part of a Commission proceeding must follow the procedures provided in

³⁸ 18 CFR 388.113(c)(1).

³⁹ EEI at 4.

⁴⁰ This provision states: "A filer, or any other person, may file an objection to disclosure, generally or to a particular person or persons who have sought intervention." Indeed, this provision provides greater rights to the submitter than section 388.113, which does not provide for notice to the submitter prior to the determination by the CEII Coordinator.

⁴¹ This provision states: "When a FOIA or CEII requester seeks a document for which privilege or CEII status has been claimed, or when the Commission itself is considering release of such information, the Commission official who will decide whether to release the information or any other appropriate Commission official will notify the person who submitted the document and give the person an opportunity (at least five calendar days) in which to comment in writing on the request. A copy of this notice will be sent to the requester."

³⁴ EEI at 5 (citing *West Deptford Energy, LLC*, 134 FERC ¶ 61,189 (2011) (seeking to protect sensitive market information); *Mojave Pipeline Corp.*, 38 FERC ¶ 61,249, at 61,842 (1987) (discussing Commission's discovery regulations)). MidAmerican supports the EEI comments.

³⁵ NOPR, FERC Stats. & Regs. ¶ 32,685 at P 16, item g & n.40 (discussing proposed § 388.112(b)(2)(iv)).

³⁶ We note that filing information for which a common law privilege is asserted is likely to breach the confidentiality necessary to maintain the privilege. See generally *McCormick on Evidence* § 93 (2007).

³⁷ See, e.g., *Independent Oil & Gas Association of West Virginia*, 21 FERC ¶ 63,030 (1983) (appointing special administrative law judge to perform *in camera* review of privileged status of discovery materials, to preserve confidentiality).

section 388.112. We find this a reasonable method to permit the use of such materials by the Commission and participants in Commission proceedings while protecting the confidentiality of the information.⁴²

C. Form and Use of Protective Agreement

29. The Commission proposed that its existing procedures regarding protective agreements in its complaint and answer regulations be applied to other filings. Under these procedures, the filing party must provide a “proposed form of protective agreement to each entity that is to be served.”⁴³ Although the Commission pointed to the Model Protective Order developed by the Commission’s Office of Administrative Litigation as a guide in developing protective agreements, it did not propose to require a uniform protective agreement.

1. Comments

30. Several commenters ask the Commission to establish one or more standard protective agreements, based on the Model Protective Order or tailored to meet particular circumstances.⁴⁴ APGA predicts that, absent such a requirement, filers may attempt to frustrate the interests of requesting parties, who have limited time to respond. ITC supports the Commission’s proposal that the proposed protective agreement be self implementing and not require action by the Commission. ITC nevertheless supports use of the Model Protective Order, except when modifications are justified or no party objects. TDUs note that the NOPR does not provide guidance on what provisions may be appropriate for a protective agreement, and notes that clarification will help ensure customer access to information and avoid disputes.⁴⁵ TDUs advocate adoption of the Model Protective Order as a basis for a protective agreement, with a requirement that parties justify any change.

31. MidAmerican suggests refinements to the requirement that a proposed form of protective agreement be served on each entity that is required to be served with the filing, arguing that service need not be required after the first time the protective agreement is

used.⁴⁶ In particular, MidAmerican argues that such a requirement is not needed when a party is using information that it obtained using the protective agreement provided by the original filer.

32. APGA urges the Commission to require that a party may execute a non-conforming agreement under protest, with issues to be resolved at a later date by the Commission.⁴⁷ TDUs likewise argue that parties should have access to materials while any objection is outstanding. TDUs ask the Commission to ensure access to materials during negotiations over terms of delivery, so that a party challenging a protective agreement may still participate effectively in the proceeding. TDUs state that such an approach will permit a party to participate meaningfully in the relevant docket without sacrificing the opportunity to test a filing party’s privilege claims.⁴⁸

33. APGA urges the Commission to lessen the requirements for signing the protective agreement and receiving the privileged materials and permit any person to whom service is required under the regulations to seek access, rather than require filing of an intervention.⁴⁹ According to APGA, requiring a person to draft and file an intervention wastes time and should not be a condition to receiving the material. APGA argues that the fact that a person is required to be served justifies access to the material. EEI, on the other hand, asks that the Commission not require release of privileged material to persons or organizations that have not been granted intervenor status.⁵⁰ EEI seeks to avoid conflict with the Commission’s regulations that permit a party 15 days to oppose a motion to intervene. EEI asks the Commission to clarify that intervention in one sub-docket would not provide the right to access material in another sub-docket.⁵¹

34. APGA argues that the Commission’s proposal requiring delivery of privileged materials within five days after a protective agreement is signed is insufficient to ensure that interested persons have timely access to privileged materials filed in pipeline filings due to the short (30-day) statutory action period.⁵² APGA does not believe that its suggestions prejudice the rights of filers to protect privileged material, but are intended to facilitate

meaningful access by interested entities.⁵³

35. Citing procedures developed in applying the Model Protective Order, TDUs ask the Commission to clarify that the burden of proof is on the party asserting a claim of privilege in any dispute of privileged status. TDUs also question whether the provision permitting a party to object to the terms in a protective agreement is effective, given statutory deadlines. TDUs ask the Commission to specify limits on the terms that may be included in a protective agreement, so that parties will not be forced to agree to unduly restrictive access or engage in fruitless litigation. TDUs argue that this is needed because, unlike in a proceeding overseen by an administrative law judge, the Commission cannot delay a statutory deadline to provide time to resolve a dispute.⁵⁴

2. Commission Response

a. Standard Protective Agreement

36. The Commission declines to adopt a standard protective agreement or provide detailed guidance as to appropriate departures or additions to the Model Protective Order in this proceeding, in light of the need for flexibility in handling different types of privileged material. In the NOPR, the Commission suggested that parties filing privileged materials in a proceeding with a right to intervene may use the Office of Administrative Litigation’s Model Protective Order as a guide for protective agreements.⁵⁵ Parties choosing to use a protective agreement based on the Model Protective Order may avoid potential litigation over the terms of the agreement that may delay the processing of their filing. For example, disputes that cannot be resolved prior to filing or through the protective agreement procedures may lead to further procedures such as suspending a filing, setting the proceeding for hearing, deficiency letters, and requests for additional procedures or information.

37. In the event a protective agreement is protested, the Commission has reviewed proposed protective orders in other contexts and provided for appropriate additions to address particular confidentiality concerns.⁵⁶ Parties wishing to file privileged material may consult the Commission’s

⁴² *Pennzoil Co. v. FPC*, 534 F.2d 627, 632 (5th Cir. 1976) (requiring consideration of alternatives to full disclosure to provide consumers with adequate knowledge to participate in Commission proceedings).

⁴³ 18 CFR 385.206(e)(2), 385.213(c)(5)(i)(ii).

⁴⁴ *E.g.*, APGA, EEI, ITC. APGA provides draft text to implement its proposals.

⁴⁵ TDUs at 3.

⁴⁶ MidAmerican at 4.

⁴⁷ APGA at 3.

⁴⁸ TDUs at 5.

⁴⁹ APGA at 3–4.

⁵⁰ EEI at 8.

⁵¹ EEI at 8.

⁵² APGA at 2 (citing NGA section 4, 15 U.S.C. §§ 717c(d) and (e)).

⁵³ APGA at 5.

⁵⁴ TDUs at 4.

⁵⁵ Available at <http://www.ferc.gov/legal/admin-lit/model-protective-order.doc>.

⁵⁶ *E.g.*, *Illinois v. Exelon Generation Co., LLC*, 119 FERC ¶ 61,027 (2007) (proposing protective order restricting access to certain materials by competitive duty personnel).

prior orders for approaches that have been employed to address particular concerns that arose in prior proceedings.

b. Right To Object to Protective Agreement and Privileged Treatment

38. APGA expresses concern that a participant may be bound by undesirable terms of a protective agreement, prior to having the opportunity to object. We do not find that signing a protective agreement should result in a waiver of the right to challenge the privileged status of the information. This procedure ensures solely that the case can be processed, not that it result in a waiver of any procedural rights. We note that the Model Protective Order contains procedures under which the signatory reserves its right to challenge the privileged status of documents covered by the agreement, and we encourage parties to include such provisions in their protective agreements. Should a protective agreement purport to contain such a waiver requirement, a party may preserve its rights by filing an objection under section 388.112(b)(2)(iii) and the Commission can then require the protective agreement be revised.

39. TDU's are concerned that the right to object to a protective agreement may not be effective given statutory deadlines. As indicated above, the Commission has procedures that may be used to resolve such disputes fairly.

c. Requirement To File an Intervention

40. We decline to adopt the revision proposed by APGA that a filing party must provide privileged materials to any person to whom service is required on request, rather than only those who have filed an intervention. As Mid-American suggests, the regulations provide that parties who are entitled to receive service will receive a copy of the filing with the protective order when served.⁵⁷ It is not too great a burden to require such parties to intervene prior to being given a copy of the privileged information. Filing an intervention is not a great burden. Indeed, the Commission has provided for an electronic document-less form of intervention that can be filled out very quickly. The requirement for intervention ensures that copies of the confidential material are provided only to those with sufficient interest in the proceeding and provides the Commission with information about a party's interest in the privileged

⁵⁷ Section 388.112(b)(2)(ii) ("the filer must provide the public version of the document and its proposed form of protective agreement to each entity that is required to be served with the filing").

materials in the event an objection to disclosure is filed.

41. We likewise reject EEI's suggestion that materials should not be provided until an intervention has been granted. We do not believe that lack of intervenor status alone provides justification for refusing to provide the privileged materials.⁵⁸ Furthermore, waiting for intervention to be granted could unnecessarily delay an interested person's access to privileged materials. As APGA notes, this could be a particular burden in Natural Gas Act cases which must be decided within 30 days. The intervention itself will provide the party filing privileged materials with information to determine whether a requesting party has an interest to support disclosure in the event that an objection to disclosure is filed under section 388.112(d)(iii).

d. Other Issues

42. In response to EEI's inquiry whether a protective agreement may apply in separate subdockets, the filer should determine whether a protective agreement signed in one subdocket is sufficient for the information that may be produced in another subdocket. The different character of such information may require a somewhat different form of protective agreement.

43. TDU argues that the burden of proof should be on the party seeking privileged status. This rulemaking does not change existing procedures regarding assignment of burdens. While the determination as to the applicability of the privileged designation is not a hearing with formal burdens of proof, the applicant needs to justify why the information is confidential under the FOIA categories.⁵⁹

D. Consistency With Discovery Procedures Used in Administrative Proceedings

44. In the NOPR, the Commission proposed that, for filings made prior to hearing, the party filing the privileged material will propose a form of protective agreement. However, in proceedings set for trial-type hearing, the NOPR proposed to leave intact the authority of the ALJ to administer the hearing and determine the appropriate scope of a protective order.

1. Comments

45. TDUs suggest that the Commission is inconsistent in removing the

⁵⁸ Under Rule 214, an intervenor obtains party status fifteen days after a timely intervention is filed, if no opposition is filed. 18 CFR 385.203.

⁵⁹ 18 CFR 388.112(d) (providing an applicant for privilege treatment the ability to respond to a requested disclosure).

designation "Protected Materials" covered by an ALJ-approved protective order and treating these materials as privileged. It asserts that an ALJ's protective order may cover a broader range of materials than filings in proceedings not set for hearing. TDUs explain that, in discovery, the term protected materials refers to materials that customarily are treated by a participant as sensitive or proprietary, which are not available to the public and which, if disclosed freely, would subject the participant to competitive harm.⁶⁰ TDUs ask the Commission to clarify that eliminating the category "protected materials" is for filing purposes and does not expand the definition of privileged materials pursuant to section 388.112.⁶¹ EPSA states that establishing separate procedures for materials provided pursuant to a protective order issued by an ALJ may lead to confusion and inadvertent disclosure.

2. Commission Response

46. Revised section 388.112(b)(2)(v), adopted in this proceeding, states, "For material filed in proceedings set for trial-type hearing or settlement judge proceedings, a participant's access to material for which privileged treatment is claimed is governed by the presiding official's protective order." The term protected material is a colloquial term that some parties apply to materials covered by a protective order. For consistency, the Commission has used the word "privileged," as it existed in the regulations prior to this rule, to refer to all material for which confidential treatment is claimed. But the use of the term privileged does not change the scope of material eligible for confidential treatment.

47. TDUs assert that the discovery materials that may be protected by an administrative law judge's protective order include materials that customarily are treated by a participant as sensitive or proprietary, which are not available to the public and which, if disclosed freely, would subject the participant to competitive harm. This description is comparable to the type of information that qualifies for confidential treatment under FOIA Exemption No. 4, which protects information where disclosure is likely "to cause substantial harm to the competitive position of the person from whom the information was obtained."⁶²

⁶⁰ TDUs at 8 & n.5.

⁶¹ TDUs at 9.

⁶² See *Reporting of Natural Gas Sales to the California Market*, 96 FERC ¶ 61,119 at 61,466-68 (2001) (citing *National Parks and Conservation Association v. Morton*, 498 F.2d 765, 770 (D.C. Cir.

We therefore find no reason to apply a different standard to materials collected during discovery than filed materials in proceedings not in hearing.⁶³

E. Procedures for Distributing Privileged Information

48. The NOPR proposed procedures obtaining access to material that is filed as privileged in complaint proceedings and in any proceeding with a right to intervene. The Commission proposed that any participant or person filing an intervention in the proceeding may request the filer to provide a copy of the complete, non-public version of the document, by providing an executed copy of the protective agreement and showing appropriate party, participant or intervenor status. The proposed regulations provide that the filer provide a copy of the complete, non-public document to the requesting person within five days of receiving the request, if no objection is filed.

1. Comments

49. To provide adequate due process for responses to requests for information, EEI asks the Commission to modify the requirement that confidential information be released “within” five days, to a requirement that the information not be released until the 5th business day, in order to permit parties to object, and suggests the Commission provide a bit more time for objections to be lodged.⁶⁴ EEI notes that in the NOPR the Commission proposed to revise 18 CFR 388.112 to give parties that have submitted privileged material to FERC staff at least five calendar days to respond to requests for information and a separate five calendar days to respond to a proposed disclosure. See 18 CFR 388.112(c)(2). EEI notes that the Commission has not afforded the same protection for information filed under section 388.112(b)(2) and states that the Commission should apply the same protective procedures to all privileged materials submitted to staff or to the Commission.⁶⁵ To provide adequate due process rights for responses to requests for information, EEI states that the Commission should withhold a proposed release of confidential information if the filing party files

notice of intent to seek judicial review to block the release.⁶⁶

50. TDUs object to the five day delay in delivering privileged materials after receipt of an executed copy of the non-disclosure agreement; instead they request delivery by the next business day. TDUs argue that delay prejudices the party seeking the information, by providing limited time for review.⁶⁷ APGA similarly recommends that the proposed 5-day period for delivering privileged materials be shortened to 24 hours. APGA states that it only takes minutes to deliver the non-redacted version which was filed with the Commission and there is no basis for delay, given the short time frame to review and address the privileged material in a pleading.⁶⁸ APGA states that, because the contents of suspension orders may depend on the contents of protests, that it is not sufficient for protesting parties to receive the material at or after the intervention deadline. APGA suggests a typical protest schedule in which a section 4 rate case is noticed after five days, interventions are due within 13 days and an order issued in 30, and asserts that there is no way to secure and review the filing, draft an intervention, execute the protective agreement and prepare a protest based on the privileged material.⁶⁹

51. INGAA objects to its reading of the proposed regulations to require service of “fully redacted” documents. According to INGAA, redacting an entire document can be burdensome to the filer and circulation of the document does not provide any benefit to recipients.⁷⁰ INGAA asks that filers be permitted to comply with the requirement in proposed section 388.112(b)(1) by submitting in its cover page requesting privileged treatment, a statement that the entire document qualifies for privileged, confidential and/or CEII treatment and a short title or description of the type of information it contains. INGAA asks that such a disclosure meet the Commission’s objective under 388.112(b)(1) to provide a redacted version “to the extent practicable.”⁷¹

52. EEI responds to the Commission’s observation in the NOPR that a failure by the filing party to afford intervenors a meaningful opportunity to review confidential information under a protective agreement could lead to

suspension of the filing, rejection, or other delays in processing an application. EEI acknowledges some delay may be necessary to respond to requests for confidential information, but states that such delay should not be punitive and a filer should not be prejudiced through rejection or suspension, as long as the confidential information designation and ensuing objection to release of the information are made in good faith.⁷²

53. According to EEI, parties seeking to justify non-disclosure of privileged materials should only be required to submit a brief, good-faith articulation of the reason for non-disclosure, but that in the event the designation is challenged or anyone seeks access to the information, the filing party will have the right to expand and supplement the justification prior to Commission action.⁷³

54. ITC suggests that, in the event that a delay in disclosure is caused by a dispute over the protective agreement, a party would not be harmed if the dispute were to result in a late filing, such as an answer to a complaint.⁷⁴

2. Commission Response

a. Five Day Distribution

55. Various parties filed comments expressing concerns with the distribution procedures. Several parties raise issues with respect to the requirement to distribute privileged information within five days. EEI wants to mandate that the information not be released in less than five days, while TDU and APGA argue that the five day requirement should be shortened. We find that the five day requirement establishes a reasonable balance between all the interests.

56. With respect to EEI’s suggestion that the five days be made mandatory to permit parties to object to disclosure, we see no reason to adopt this rule for all filings. As other commenters note, early release of information is preferable because it provides other parties with more time to evaluate the filing. To the extent that EEI’s concern is that the filing party is claiming confidentiality for third-party information in its possession, the filing party ought to inform the third-party before filing, should consult with the third-party as to the appropriate form of protective agreement for the information, and may want to choose the full five days to permit a response.

57. We similarly reject the TDU and APGA arguments that the information

1974)). FOIA Exemption No. 4 is incorporated in the Commission’s regulations in section 388.107(d).

⁶³ Indeed, it would be inconsistent for the Commission to use a different standard for defining material submitted in an application compared with material submitted through an ALJ proceeding. The same FOIA provisions apply to both sets of information and an FOIA request can be filed for material submitted during discovery in an administrative proceeding.

⁶⁴ EEI at 9.

⁶⁵ *Id.*

⁶⁶ EEI at 10.

⁶⁷ TDUs at 5.

⁶⁸ APGA at 4.

⁶⁹ *Id.* at 4–5.

⁷⁰ INGAA at 5.

⁷¹ *Id.* at 6.

⁷² EEI at 10.

⁷³ EEI at 8.

⁷⁴ ITC at 3.

be disclosed in less than five days through electronic delivery. While immediate electronic service may be appropriate for certain materials, a filer may have a legitimate interest in not providing such material electronically. Even in natural gas cases, five days from the date of the request should provide sufficient opportunity to obtain and review such information.⁷⁵ In those cases in which a party shows that given the extensive nature of the privileged information, it did not have adequate time to review the material, the Commission has procedures to ensure an adequate review period.

b. Redaction of Entire Document

58. INGA requests that the Commission clarify that the requirement for filing a redacted public copy still permits, in appropriate circumstances, the filing party in the transmittal letter to provide a description of the document and identify the entire document as privileged. The regulation requires that a redacted public version be filed, to the extent practicable. The regulation, therefore, would not preclude a filer from identifying the entire document as privileged if it, in good faith, is unable to separate sensitive or confidential material from the remainder of the document.

c. Opportunity to Respond

59. The Commission declines to adopt EEI's suggestion that filing parties be provided with an opportunity to respond to requests for information by arguing their justification for withholding material. Under the Commission's current regulations a filing party must include in its filing a justification for privileged treatment, demonstrating that the material is exempt from mandatory disclosure under FOIA according to the categories defined in section 388.107 of the Commission's Rules and Regulations. The procedures promulgated in this proceeding continue that practice. If a filing party objects to disclosure to a particular party, it may file an objection under section 388.112(b)(2)(iii) as appropriate. Furthermore, a non-filing party may object to the privileged status of the materials under review. The Commission may address each of these objections by issuing an order, by which time the parties should have had time to assert their interests in their pleadings. However, we emphasize that

⁷⁵ As APGA has noted, many of these parties will be served by the pipeline and therefore will have immediate notice that confidential information is included. Moreover, the Commission issues notices of these filings very shortly after they are filed.

failure to resolve such disputes may result in delay in processing the filing.

d. Need for Additional Procedures

60. EEI is concerned that delaying approval of filings due to the submission of privileged information may be "punitive." The Commission needs to provide due process to allow for adequate review of all filings and that includes filings containing privileged information. If parties can demonstrate that they have not had sufficient time to review a filing, the Commission may adopt whatever procedures it deems appropriate to ensure due process to all parties. Indeed, the Commission is adopting this rule to clarify procedures for handling privileged material to expedite proceedings. As noted in the NOPR, the Commission previously has preceded on an ad hoc basis when addressing filings (other than complaints and answers) containing privileged information which has contributed to delay in the Commission's ability to process such filings expeditiously. To permit parties to participate fully in these proceedings, the Commission has issued special orders or notices to ensure access to privileged material.⁷⁶ By clarifying the filing procedures for privileged information, this rule will reduce the need to use additional processes and therefore should expedite, not delay, proceedings.

F. NERC Notices of Penalty and Other Communications

1. Comments

61. NERC asks the Commission to clarify that the procedures proposed in the NOPR will not apply to NERC's filing of a notice of penalty, to filings of remediated issues in a Find, Fix, Track and Report spreadsheet, or to other communications or exchanges of documents between NERC and FERC that are not made through formal filings.⁷⁷

62. According to NERC, it submits notices of penalty and Find, Fix, Track reports on a monthly basis, and points out that it treats such materials as non-public under 18 CFR 39.7(b)(4). NERC's practice is to file some portion of the notices and reports as non-public, absent a public hearing sought by the

⁷⁶ See *West Deptford Energy, LLC*, 134 FERC ¶ 61,189 (2011) (denying request to limit parties' rights to see documents). See also *PPL Montana, LLC*, 113 FERC ¶ 61,231 (2005); *PJM Interconnection, L.L.C.*, Notice of Filing, Docket No. ER05-10-000 (May 6, 2005); *PJM Interconnection, L.L.C.*, Notice of Filing, Docket No. ER04-539-002 (Apr. 30, 2004).

⁷⁷ NERC at 3 (discussing FPA section 215(e); 18 CFR 39.7(c)(2)).

Commission or a penalized entity under section 39.7(e)(1 and 7). NERC requests that the Commission clarify that NERC is not required to submit a protective agreement with Notice of Penalty or Find, Fix, Track filings or other communications or documents that are not exchanged through formal filings. According to NERC, the Commission's decision to review a Notice of Penalty may include instructions for NERC to submit a protective agreement.

63. NERC also asks the Commission to clarify that NERC's regular nonpublic exchanges of information exchanged through means other than formal filings do not require a protective agreement.⁷⁸

2. Commission Response

64. We agree that NERC need not submit a protective agreement when filing its notices of penalties. The protective agreement procedures apply in the case of regulations that apply to "any proceeding to which a right to intervention exists." With respect to NERC's filing of notices of penalty, no right to intervene exists unless the Commission issues an order initiating review of the filing and provides for public intervention and comment.⁷⁹ If the Commission establishes such a proceeding, it will establish whatever procedures with respect to the materials are necessary.

65. As for NERC's remaining concern with respect to materials distributed in informal settings, NERC states that the communications that it refers to are not made through formal filings. Consequently, we confirm that the protective agreement requirement does not apply. This rulemaking does not revise the applicable FOIA procedures and the Commission will continue to abide by those procedures.

G. Electronic Filing Procedures

66. EEI proposes various revisions to the Commission's electronic filing procedures, such as the types of media that may be used, extension of electronic filing procedures to certain Commission forms under 18 CFR 385.2011. In addition, EEI supports the Commission broadly preserving the option to file on paper for parties that need such an option and encourages the

⁷⁸ *Id.*

⁷⁹ 18 CFR § 39.7(e)(1); see also *North American Electric Reliability Corp.*, Order Initiating Review of Notice of Penalty, 136 FERC ¶ 61,135 (2011); *Rules Concerning Certification of the Electric Reliability Organization*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, at PP 510-11 (2006) (noting that Commission conducts initial review of NERC Notice of Penalty as nonpublic pursuant to its FPA Part 1b investigatory authority, until an on the record hearing is provided for).

Commission to minimize requirements that limit flexibility.

67. Revising the Commission's electronic filing procedures and treatment of Forms is beyond the scope of this proceeding, and the Commission is not prepared to implement such changes in this proceeding. Filings may still be made on paper except in those circumstances (tariffs, forms, etc) where the Commission requires electronic filing.

H. Prospective Effect

68. EEI asks the Commission to clarify that the new regulations apply prospectively only as to new dockets or sub-dockets and that parties that have already made filings should not be compelled to provide a protective agreement after-the-fact.⁸⁰

69. We agree that these regulations will apply only to filings made after their implementation. With respect to filings made previously, the procedures adopted in those proceedings will need to be followed.

I. Changes to Text of Proposed Regulations

70. The Commission has made three changes to the text of the revised regulations in response to commenters' suggestions for changes in the regulatory text, as discussed below. The remaining suggestions are also discussed in turn below.

1. Changes Adopted

71. MidAmerican proposes the following underlined clarifications to reflect that a single protective agreement may apply to all materials filed in a proceeding: "The filer must provide the public version of the document and its proposed form of protective agreement, if an applicable protective agreement does not currently exist, to each entity that is required to be served with the filing. If an applicable protective agreement currently exists, the filer must identify where the protective agreement can be obtained."

72. The Commission agrees, based on the provisions in the Model Protective Order, that one protective agreement may be drafted to apply to all materials in a proceeding. Consequently, we have revised the final regulations to accommodate such use.

73. EEI asks the Commission to modify 18 CFR 34.7, which it claims requires paper filings of privileged information submitted in applications for authorization to issue securities and assumptions of liability under FPA

section 204. EEI asks the Commission to cross reference 18 CFR 388.112.

74. Section 34.7 states that applications for authorization to issue securities and assumptions of liability under section 204 should be filed in accordance with the filing procedures posted on the Commission's web site, in reflection of the Commission's moving such instructions out of its regulations and placing them on the internet. Consistent with other regulations, we add a sentence to section 34.7 to reflect that privileged materials may be filed electronically.

75. EEI proposes that the Commission consult with the Counsel on Environmental Quality as to its proposal to remove the requirement in sections 380.12 and 380.16 that "The cover and relevant pages or portions of the report should be clearly labeled in bold lettering: 'CONTAINS PRIVILEGED INFORMATION—DO NOT RELEASE.'" ⁸¹ According to EEI, the Commission must consult with the Counsel on Environmental Quality before changing National Environmental Policy Act regulations, including 18 CFR Part 380.⁸²

76. The NOPR proposed to adopt generic instructions in section 388.112 to permit a party to customize their headings to reflect the privilege being claimed and identify the material in question. Thus, the instruction may apply to either confidential trade secrets or CEII. As for EEI's concern, while we see no inconsistency with the revised instruction and the requirements in Part 380, we will not revise the labeling instructions in the current versions of sections 380.12(f)(4) and 380.16(f)(4), in order not to run afoul of the environmental regulation review requirements.

2. Proposed Changes Not Accepted

77. MidAmerican cites inconsistency in section 388.112, which refers to "procedures for filing and obtaining privileged and CEII material" rather than "privileged material."⁸³ Since CEII is a sub-set of privileged materials, we see no confusion as the procedures we

⁸¹ EEI at 10. In the NOPR, the Commission proposed to replace this with the general requirement in 388.112 that "The cover page and relevant pages or portions of the filing document containing material for which privileged treatment is claimed should be clearly labeled in bold, capital lettering, indicating that it contains privileged, confidential and/or CEII, as appropriate, and marked 'DO NOT RELEASE.'"

⁸² EEI at 10 (citing Counsel on Environmental Quality regulations at 18 CFR 1507.3(a)).

⁸³ MidAmerican at 3.

establish here apply to both, and we will not make the requested change.⁸⁴

78. Mid-American objects to what it sees as inconsistent usage, noting the lack of a reference to "Privileged Materials" in section 388.112(b) and the requirements instead to label a filed document, "indicating that it contains privileged, confidential and/or Critical Energy Infrastructure Information, as appropriate, and marked 'DO NOT RELEASE.'" ⁸⁵ According to Mid-American use of the term confidential and describing material as privileged make the section hard to follow. The Commission disagrees, but clarifies that the provision was drafted to permit the use and filing of several categories of privileged material and permit filing parties to customize the notification that a filing contains privileged material to fit their circumstances.

79. TDUs state that the Commission should include a cross-reference to Rule 410, 18 CFR 385.410, and section 388.112 in Rules 206 and 213 to avoid ambiguity, 18 CFR 385.206 and 18 CFR 385.213. According to TDUs, a cross-reference would clarify that the treatment of information for which a claim of confidentiality or privilege is asserted will be governed by Rule 410 and section 388.112. In addition TDUs support retaining the reference to Rule 410 and section 388.112 in Rule 606, 18 CFR § 385.606, governing the treatment of privileged and protected information in settlement proceedings.⁸⁶

80. The Commission's intention is to consolidate its regulations for filing privileged materials in section 388.112. Consequently, we found it unnecessary to reference section 388.112 as the regulation describing how one should file privileged materials, because section 388.112 is the only regulation defining how such materials should be handled.

III. Revised Time for Filing Answers to Motions for Extensions of Time or Expedited Action Dates

81. To facilitate the Commission's ability to respond to motions requesting extensions of time or shortened time to take actions required under the Commission's orders or regulation, the Commission proposed to revise Rule 213 in its Rules of Practice and Procedure to provide that answers to motions requesting an extension of time as well as motions seeking to expedite a deadline, that is, shorten the period of time in which action is to occur, will be

⁸⁴ Nevertheless, clarifying changes were made throughout the regulations.

⁸⁵ MidAmerican at 3.

⁸⁶ TDUs at 9.

⁸⁰ EEI at 7-8.

due in five days.⁸⁷ The Commission explained that frequently, parties filing such motions do not know 15 days before a filing is due that they require a change in compliance time periods, and these motions are not controversial or complicated. The Commission stated that, with a 15-day comment period, the Secretary of the Commission (under delegated authority) has had to issue notices shortening comment periods on such motions. Since motions regarding the time period for responding are not controversial or complex, five days appeared to provide a reasonable time for responses that will eliminate the burden and additional delay created by the need for the Secretary to issue a notice shortening the comment period.

82. In addition, the NOPR proposed a related change to the Secretary's delegation authority under 18 CFR 375.302(b) to clarify that the Secretary of the Commission has authority to address requests for shortened answer periods and expedite requests to extend or shorten the times to take actions consistent with the delegated authority of other office directors.⁸⁸ Exercise of such authority will help expedite requests for extension of time.

1. Comments

83. INGAA, APGA, PJM, and ITC generally support the Commission's proposal to reduce the time for responding to requests for extensions of time. APGA finds the five day answer period appropriate in most cases.⁸⁹ PJM suggests lengthening the time for response to five business days. While supporting the five days, ITC suggests that for circumstances where action may be needed in a shorter time period, the filing party be permitted to request a shorter time period in its filing.

84. INGAA objects to the removal of the provision in the secretary's delegated authority in 18 CFR 375.302(b) stating, "Absent a waiver, no answers [to complaints, petitions, motions and other documents] will be required to be filed by a party within less than ten days after the date of service of the document." INGAA notes that removal of this provision could permit the Secretary to shorten any answer period, including the time for responding to a complaint, to any time period. INGAA describes this as a

wholesale change, which it states the Commission has failed to justify.⁹⁰ INGAA asks the Commission to maintain the minimum ten-day answer period for complaints, petitions, motions and other documents that do not request an extension of time.

2. Commission Response

85. The Commission will adopt the revised regulation to provide for shortened answer periods to the motions for extensions of time or requesting expedited action and to clarify the Secretary's authority to act on such motions. We find that the five day answer period strikes an appropriate balance for the need to expedite action on such requests while preserving interested parties ability to respond to such requests. Since motions regarding time periods are not controversial or complex, five days provides a reasonable time for answers.⁹¹ The five-day notice period also will help reduce the burden and delay caused by the Secretary of the Commission (under delegated authority) having to issue notices shortening answer periods.

86. ITC requests that the Commission affirm that parties may request a shortened answer period. While such a filing is permitted, the purpose of the revised regulation is to eliminate the need to issue notices shortening answer periods. Also, given the time it takes to issue such a notice, it will be difficult, in any but extreme cases, for the Secretary to issue a notice shortening an answer period in time to provide parties the ability to respond. Participants contemplating making filings to change time periods should be able to anticipate the need for such a filing five days in advance.

87. As for INGAA's concern with the Commission's revision of the Secretary's delegated authority, we affirm our decision. As noted in the NOPR, the change to the Secretary's delegated authority will clarify that the Secretary has authority to respond to motions in a shortened time frame when necessary to respond to a request for extension of time or expedited action period. While INGAA is correct that the change would also permit the Secretary to shorten the time for filing answers in other contexts, we anticipate that the Secretary would shorten the time for action only when justified and will do so in such a way as not to prejudice any party.

IV. Information Collection Statement

88. Office of Management and Budget (OMB) regulations require OMB to

approve certain information collection requirements imposed by agency rule.⁹² This rule does not contain any information collection requirements and compliance with the OMB regulations is thus not required. The Commission anticipates this rulemaking will reduce the burden of making filings because it will allow filers who previously filed on paper to take advantage of the efficiencies and ease associated with electronic submission in the standardized procedures. In addition, this Final Rule does not make any substantive or material changes to requirements specified in the NOPR, where the Commission similarly found no information collection requirements.

89. EEI suggests that the requirement to submit a protective agreement along with the filing of privileged materials embodies a new burden in the Commission's Paperwork Reduction Act analysis.⁹³ The Commission disagrees. The Commission is not requiring any party to file and rely on privileged material in proceedings before the Commission. Furthermore, the requirement to use a protective agreement to facilitate meaningful review of the material by interested parties has long been a part of our regulations pertaining to the filing of complaints and answers. Additionally, those regulations have served as a model in practice for parties filing privileged materials in other proceedings. Thus, the requirement to provide and to use a protective agreement represents a codification of the Commission's existing practice under which a party seeking to rely on privileged materials must provide interested persons the opportunity for meaningful review of privileged materials in Commission proceedings, which typically occurs through the use of a protective agreement. Therefore, we find that codifying the requirement to deliver a protective agreement does not represent a new burden, but simply reflects the Commission's existing practice of applying the procedures developed in the complaint regulations on a case-by-case basis for all filings in which a right of intervention exists. Furthermore, by facilitating filing and service of the protective agreement by electronic means, the revised regulations minimize any impact and reduce the burden of using privileged materials in Commission proceedings.

90. The Commission will submit a copy of this Final Rule to OMB only for informational purposes.

⁹² 5 CFR 1320.12.

⁹³ EEI at 8, Paperwork Reduction Act of 1995, section 3507(d), 44 U.S.C. 3507(d).

⁸⁷ See revised Rule 213, 18 CFR 385.213.

⁸⁸ See 18 CFR 375.307(b)(1)(ii).

⁸⁹ MidAmerican notes that the summary of section 385.213(d) set forth in P 4 of the NOPR states that the revised regulations apply to all motions requesting an extension of time, not just to those "for which the existing time for compliance may fall fifteen days or fewer from the date of filing."

⁹⁰ INGAA at 3.

⁹¹ In most cases, such filings are not opposed.

V. Environmental Analysis

91. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.⁹⁴ This rule would not represent a major federal action having a significant adverse effect on the quality of the human environment under the Commission's regulations implementing the National Environmental Policy Act. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for procedural, ministerial or internal administrative actions.⁹⁵ This rulemaking is exempt under that provision.

VI. Regulatory Flexibility Act

92. The Regulatory Flexibility Act of 1980 (RFA)⁹⁶ generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a rulemaking while minimizing any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.⁹⁷ The SBA has established a size standard for electrical utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation, and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million MWh.⁹⁸

93. The Commission finds this rule concerns procedural matters and expects it to increase the ease and convenience of filing.⁹⁹ The

⁹⁴ *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

⁹⁵ 18 CFR 380.4(1) and (5).

⁹⁶ 5 U.S.C. 601–612.

⁹⁷ 13 CFR 121.101 (2011).

⁹⁸ 13 CFR 121.201, Sector 22 Utilities & n.1.

⁹⁹ See Order No. 703, FERC Stats. & Regs. ¶ 31,259 at P 39. The Commission does not believe that an RFA analysis similar to that provided in Order No. 714, FERC Stats. & Regs. ¶ 31,276 at P 113, is required or would be useful, because persons making filings with the Commission would not need new software, systems or training, and would not be required to convert existing materials to the new format, as was the case in that proceeding.

Commission certifies that it will not have a significant economic impact upon participants in Commission proceedings. An analysis under the RFA is not required.

VII. Document Availability

94. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

95. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

96. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.reference.room@ferc.gov.

VIII. Effective Date and Congressional Notification

97. These regulations are effective December 28, 2012.

List of Subjects

18 CFR Part 4

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 CFR Part 5

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 CFR Part 16

Administrative practice and procedure, Electric power, Electric utilities, Reporting and recordkeeping requirements, Securities.

18 CFR Part 33

Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 34

Electric power, Electric utilities, Reporting and recordkeeping requirements, Securities.

18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements, Uniform system of accounts.

18 CFR Part 348

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 385

Administrative practice and procedure, Electric utilities, Penalties, Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 388

Confidential business information; Freedom of information.

By the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

In consideration of the foregoing, the Commission amends Parts 4, 5, 16, 33, 34, 35, 157, 348, 375, 385, and 388, Chapter I, Title 18, of the Code of Federal Regulations, as follows.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATIONS OF PROJECT COSTS

- 1. The authority citation for Part 4 is revised to read as follows:

Authority: 16 U.S.C. 791a–825v, 2601–2645; 42 U.S.C. 7101–7352.

§ 4.39 [Amended]

- 2. In paragraph (e) of § 4.39, remove the phrase “Critical Energy Infrastructure Information in §§ 388.112 and 388.113 of subchapter X of this chapter” and add the phrase “privileged materials and Critical Energy Infrastructure Information in §§ 388.112 and 388.113 of this chapter” in its place.

PART 5—INTEGRATED LICENSE APPLICATION PROCESS

- 3. The authority citation for Part 5 is revised to read as follows:

Authority: 16 U.S.C. 792–828c, 2601–2645; 42 U.S.C. 7101–7352.

- 4. Revise paragraph (c) of § 5.29 to read as follows:

§ 5.29 Other provisions.

* * * * *

(c) *Requests for privileged or Critical Energy Infrastructure Information treatment of pre-filing submission.* If a potential Applicant requests privileged or critical energy infrastructure information treatment of any information submitted to the Commission during pre-filing consultation (except for the information specified in § 5.4), the Commission will treat the request in accordance with the provisions in § 388.112 of this chapter until the date the application is filed with the Commission.

* * * * *

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

- 5. The authority citation for Part 16 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 42 U.S.C. 7101–7352.

§ 16.8 [Amended]

- 6. In the heading of § 16.8(g), add the phrase “or Critical Energy Infrastructure Information” after the word “privileged”.

PART 33—APPLICATIONS UNDER FEDERAL POWER ACT SECTION 203

- 7. The authority citation for Part 33 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

- 8. Revise § 33.8 to read as follows:

§ 33.8 Requirements for filing applications.

The applicant must submit the application or petition to the Secretary of the Commission in accordance with filing procedures posted on the Commission’s Web site at <http://www.ferc.gov>.

(a) If the applicant seeks to protect any portion of the application, or any attachment thereto, from public disclosure, the applicant must make its filing in accordance with the Commission’s instructions for submission of privileged materials and Critical Energy Infrastructure Information in § 388.112 of this chapter.

(b) If required, the applicant must submit information specified in paragraphs (b), (c), (d), (e) and (f) of § 33.3 or paragraphs (b), (c), (d) and (e) of § 33.4 on electronic recorded media (i.e., CD/DVD) in accordance with § 385.2011 of this chapter, along with a printed description and summary. The

printed portion of the applicant’s submission must include documentation for the electronic information, including all file names and a summary of the data contained in each file. Each column (or data item) in each separate data table or chart must be clearly labeled in accordance with the requirements of §§ 33.3 and 33.4. Any units of measurement associated with numeric entries must also be included.

§ 33.9 [Removed and Reserved].

- 9. Remove and reserve § 33.9.

PART 34—APPLICATION FOR AUTHORIZATION OF THE ISSUANCE OF SECURITIES OR THE ASSUMPTION OF LIABILITIES

- 10. The authority citation for Part 34 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

- 11. In § 34.7, add a sentence after the first sentence to read as follows:

§ 34.7 Filing requirements.

* * * If an applicant seeks to protect any portion of an application from public disclosure, the applicant must make its filing in accordance with the Commission’s instructions for filing privileged materials and critical energy infrastructure information in this chapter.

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

- 12. The authority citation for Part 35 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

- 13. Revise § 35.37, paragraph (f) to read as follows.

§ 35.37 Market power analysis required.

* * * * *

(f) If the Seller seeks to protect any portion of a filing from public disclosure, the Seller must make its filing in accordance with the Commission’s instructions for filing privileged materials and critical energy infrastructure information in § 388.112 of this chapter.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

- 14. The authority citation for Part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717z.

§ 157.21 [Amended]

- 15. In § 157.21(h), remove the phrase “for the submission of documents containing critical energy infrastructure information, as defined in § 388.113.” and add the phrase “of this chapter for the submission of documents containing privileged materials or critical energy infrastructure information.” in its place.

§ 157.34 [Amended]

- 16. In § 157.34(d)(4), remove the phrase “under confidential treatment pursuant to § 388.112 of this chapter if desired.” and add the phrase “seeking privileged treatment pursuant to § 388.112 of this chapter.” in its place.

PART 348—OIL PIPELINE APPLICATIONS FOR MARKET POWER DETERMINATIONS

- 17. The authority citation for Part 348 is revised to read as follows:

Authority: 42 U.S.C. 7101–7352, 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

- 18. Revise § 348.2, paragraph (a) to read as follows:

§ 348.2 Procedures.

(a) All filings under this part must be made electronically pursuant to the requirements of §§ 341.1 and 341.2 of this chapter. A carrier seeking privileged treatment for all or any part of its filing must submit a request for privileged treatment in accordance with § 388.112 of this chapter.

* * * * *

PART 375—THE COMMISSION

- 19. The authority citation for Part 375 is revised to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

- 20. Revise § 375.302, paragraph (b) to read as follows:

§ 375.302 Delegations to the Secretary.

* * * * *

(b) Prescribe, for good cause, a different time than that required by the Commission’s Rules of Practice and Procedure or Commission order for filing by public utilities, licensees, natural gas companies, and other persons of answers to complaints, petitions, motions, and other documents.

* * * * *

PART 385—RULES OF PRACTICE AND PROCEDURE

- 21. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 792–828c, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

§ 385.206 [Amended]

- 22. In § 385.206, remove and reserve paragraph (e).
- 23. Revise § 385.213, paragraphs (c)(5) and (d)(1) to read as follows:

§ 385.213 Answers (Rule 213).

* * * * *

(c) * * *

(5) When submitting with its answer any request for privileged treatment of documents and information in accordance with this chapter, a respondent must provide a public version of its answer without the information for which privileged treatment is claimed and its proposed form of protective agreement to each entity that has either been served pursuant to § 385.206(c) or whose name is on the official service list for the proceeding compiled by the Secretary.

* * * * *

(d) *Time limitations.* (1) Any answer to a motion or to an amendment to a motion must be made within 15 days after the motion or amendment is filed, except as described below or unless otherwise ordered.

(i) If a motion requests an extension of time or a shortened time period for action, then answers to the motion to extend or shorten the time period shall be made within 5 days after the motion is filed, unless otherwise ordered.

(ii) [Reserved]

* * * * *

§ 385.606 [Amended]

- 24. In § 385.606:
 - a. In paragraph (f), remove the sentence “See sections 385.410 and 388.112 of this chapter.”
 - b. In paragraph (j), remove the phrase “section 388.112 of.”

PART 388—INFORMATION AND REQUESTS

- 25. The authority citation for part 388 continues to read as follows:

Authority: 5 U.S.C. 301–305, 551, 552 (as amended), 553–557; 42 U.S.C. 7101–7352.

- 26. Revise § 388.112 to read as follows:

§ 388.112 Requests for privileged treatment and Critical Energy Infrastructure Information (CEII) treatment for documents submitted to the Commission.

(a) *Scope.* (1) By following the procedures specified in this section, any

person submitting a document to the Commission may request privileged treatment for some or all of the information contained in a particular document that it claims is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552 (FOIA), and should be withheld from public disclosure. For the purposes of the Commission’s filing requirements, information subject to an outstanding claim of exemption from disclosure under FOIA, including critical energy infrastructure information (CEII), will be referred to as privileged material.

(2) Any person submitting documents containing CEII as defined in § 388.113, or seeking access to such information should follow the procedures in this chapter.

(b) *Procedures for filing and obtaining privileged or CEII material.* (1) *General Procedures.* A person requesting that material be treated as privileged information or CEII must include in its filing a justification for such treatment in accordance with the filing procedures posted on the Commission’s Web site at <http://www.ferc.gov>. A person requesting that a document filed with the Commission be treated as privileged or CEII must designate the document as privileged or CEII in making an electronic filing or clearly indicate a request for such treatment on a paper filing. The cover page and pages or portions of the document containing material for which privileged treatment is claimed should be clearly labeled in bold, capital lettering, indicating that it contains privileged, confidential and/or Critical Energy Infrastructure Information, as appropriate, and marked “DO NOT RELEASE.” The filer also must submit to the Commission a public version with the information that is claimed to be privileged material redacted, to the extent practicable.

(2) *Procedures for Proceedings with a Right to Intervene.* The following procedures set forth the methods for filing and obtaining access to material that is filed as privileged in complaint proceedings and in any proceeding to which a right to intervention exists:

(i) If a person files material as privileged material or CEII in a complaint proceeding or other proceeding to which a right to intervention exists, that person must include a proposed form of protective agreement with the filing, or identify a protective agreement that has already been filed in the proceeding that applies to the filed material. This requirement does not apply to material submitted in hearing or settlement proceedings, or if the only material for which privileged

treatment is claimed consists of landowner lists or privileged information filed under §§ 380.12(f), (m), (o) and 380.16(f) of this chapter.

(ii) The filer must provide the public version of the document and its proposed form of protective agreement to each entity that is required to be served with the filing.

(iii) Any person who is a participant in the proceeding or has filed a motion to intervene or notice of intervention in the proceeding may make a written request to the filer for a copy of the complete, non-public version of the document. The request must include an executed copy of the protective agreement and a statement of the person’s right to party or participant status or a copy of their motion to intervene or notice of intervention. Any person may file an objection to the proposed form of protective agreement. A filer, or any other person, may file an objection to disclosure, generally or to a particular person or persons who have sought intervention.

(iv) If no objection to disclosure is filed, the filer must provide a copy of the complete, non-public document to the requesting person within 5 days after receipt of the written request that is accompanied by an executed copy of the protective agreement. If an objection to disclosure is filed, the filer shall not provide the non-public document to the person or class of persons identified in the objection until ordered by the Commission or a decisional authority.

(v) For material filed in proceedings set for trial-type hearing or settlement judge proceedings, a participant’s access to material for which privileged treatment is claimed is governed by the presiding official’s protective order.

(vi) For landowner lists, information filed as privileged under §§ 380.12(f), (m), (o) and 380.16(f), forms filed with the Commission, and other documents not covered above, access to this material can be sought pursuant to a FOIA request under § 388.108 or a CEII request under § 388.113 of this chapter. Applicants are not required under paragraph (b)(2)(iv) of this section to provide intervenors with landowner lists and the other materials identified in the previous sentence.

(c) *Effect of privilege or CEII claim.* (1) For documents filed with the Commission:

(i) The documents for which privileged or CEII treatment is claimed will be maintained in the Commission’s document repositories as non-public until such time as the Commission may determine that the document is not entitled to the treatment sought and is subject to disclosure consistent with

§§ 388.108 or 388.113 of this chapter. By treating the documents as nonpublic, the Commission is not making a determination on any claim of privilege or CEII status. The Commission retains the right to make determinations with regard to any claim of privilege or CEII status, and the discretion to release information as necessary to carry out its jurisdictional responsibilities.

(ii) The request for privileged or CEII treatment and the public version of the document will be made available while the request is pending.

(2) For documents submitted to Commission staff. The notification procedures of paragraphs (d), (e), and (f) of this section will be followed before making a document public.

(d) *Notification of request and opportunity to comment.* When a FOIA or CEII requester seeks a document for which privilege or CEII status has been claimed, or when the Commission itself is considering release of such information, the Commission official who will decide whether to release the information or any other appropriate Commission official will notify the person who submitted the document and give the person an opportunity (at least five calendar days) in which to comment in writing on the request. A copy of this notice will be sent to the requester.

(e) *Notification before release.* Notice of a decision by the Commission, the Chairman of the Commission, the Director, Office of External Affairs, the General Counsel or General Counsel's designee, a presiding officer in a proceeding under part 385 of this chapter, or any other appropriate official to deny a claim of privilege, in whole or in part, or to make a limited release of CEII, will be given to any person claiming that the information is privileged or CEII no less than 5 calendar days before disclosure. The notice will briefly explain why the person's objections to disclosure are not sustained by the Commission. A copy of this notice will be sent to the FOIA or CEII requester.

(f) *Notification of suit in Federal courts.* When a FOIA requester brings suit to compel disclosure of information for which a person has claimed privileged treatment, the Commission will notify the person who submitted the documents of the suit.

§ 388.113 [Amended]

■ 27. In § 388.113(d)(1) and (d)(2), remove the phrase "paragraph (d)(3)" and add the phrase "paragraph (d)(4)" in its place.

[FR Doc. 2012-26126 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF STATE

22 CFR Part 52

[Public Notice 8074]

RIN 1400-AD27

Repeal of Regulations on Marriages

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: In accordance with Executive Order 13563, the Bureau of Consular Affairs is repealing the regulations on marriages. The current regulations are outdated and duplicative of other authorities that detail procedures for authentications and documentation of life events. Further, in light of other authorities, it is unnecessary to specifically state in the regulations how consular authority is limited.

DATES: *Effective Date:* This rule is effective October 29, 2012.

FOR FURTHER INFORMATION CONTACT: Dara Morenoff, Office of Legal Affairs, Overseas Citizen Services, U.S. Department of State, 2201 C Street NW., SA-29, Washington, DC 20520, (202) 736-4995, morenoffdj@state.gov.

SUPPLEMENTARY INFORMATION: This rule removes Part 52 of the Code of Federal Regulations, which relates to the consular role in marriages. The Department is removing Part 52 because it is outdated and duplicative of other federal laws and regulations. For example:

—Section 52.1 provides that consular officers may not conduct marriages or serve as witnesses to a marriage. The law authorizing consular officers to act in this capacity, 22 U.S.C. 4192, was repealed in 1990.

—Section 52.2 relates to authentication of marriage documents. This section is unnecessary because the laws and regulations that apply to authentications in general also apply to marriage documents, and these functions are already covered in 22 CFR 92.41.

—Finally, Section 52.3 is unnecessary because there is no longer demand for official certificates with respect to marriage laws in foreign countries.

Regulatory Analysis and Notices

Administrative Procedure Act

This action is being taken as a final rule pursuant to the "good cause" provision of 5 U.S.C. 553(b). It is the position of the Department that notice and comment are not necessary in light of the fact that Part 52 is obsolete or duplicative of other authorities.

Regulatory Flexibility Act

It is hereby certified that the repeal of these regulations will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b), because the issues addressed are not of an economic nature. In addition, the repeal of this regulation does not have federalism implications under E.O. 13132.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Executive Orders 12866 and 13563

The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of this regulation justify its costs. The Department does not consider this rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of \$100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. The Department has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

Civil Justice Reform

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Consultations With Tribal Governments

The Department has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 52

Authentication of marriage, Marriage and divorce, Marriage laws.

■ Accordingly, under the authority of 22 U.S.C. 2651a, and because the statutory authority for Part 52 has been repealed, 22 CFR Chapter I, Subchapter F is amended by removing Part 52.

Dated: October 2, 2012.

Janice L. Jacobs,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2012-26554 Filed 10-26-12; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket No. USCG-2011-0228]

RIN 1625-AA00

Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Chicago Sanitary and Ship Canal from Mile Marker 296.1 to Mile Marker 296.7 at various times on November 14, 2012. This action is necessary to protect the waterways, waterway users, and vessels from hazards associated with the Illinois Department of Natural Resources netting and electro-fishing clearing operation.

During any of the below listed enforcement periods, entry into, transiting, mooring, laying-up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

DATES: The regulations in 33 CFR 165.930 will be enforced from 7:00 a.m. to 11:00 a.m. and from 1:00 p.m. to 5:00 p.m. on November 14, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, telephone 414-747-7148, email address *Joseph.p.Mccollum@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone; Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone between Mile Marker 296.1 to Mile Marker 296.7 on all waters of the Chicago Sanitary and Ship Canal. Enforcement will occur from 7:00 a.m. until 11:00 a.m. and 1:00 p.m. until 5:00 p.m. on November 14, 2012.

This enforcement action is necessary because the Captain of the Port, Sector Lake Michigan has determined that the Illinois Department of Natural Resources netting and electro-fishing clearing operation poses risks to life and property. The passage of vessel traffic during the same time as the Operation makes the controlling of vessels through the impacted portion of the Chicago Sanitary and Ship Canal necessary to prevent injury and property loss.

In accordance with the general regulations in § 165.23 of this part, entry into, transiting, mooring, laying up or anchoring within the enforced area of this safety zone by any person or vessel is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

This notice is issued under authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Captain of the Port, Sector Lake Michigan, will also provide notice through other means, which may include, but are not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice.

Additionally, the Captain of the Port, Sector Lake Michigan, may notify representatives from the maritime industry through telephonic and email notifications.

Dated: October 11, 2012.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.

[FR Doc. 2012-26489 Filed 10-26-12; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R05-OAR-2009-0805; EPA-R05-OAR-2012-0567; FRL-9742-4]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Indiana; Michigan; Minnesota; Ohio; Wisconsin; Infrastructure SIP Requirements for the 2006 PM_{2.5} National Ambient Air Quality Standards; Indiana NSR/PSD

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve most elements, and disapprove narrow portions of other elements, of State Implementation Plan (SIP) submissions by Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin regarding the infrastructure requirements of the Clean Air Act (CAA) for the 2006 24-hour fine particle national ambient air quality standards (2006 PM_{2.5} NAAQS). The infrastructure requirements are designed to ensure that the structural components of each State's air quality management program are adequate to meet the State's responsibilities under the CAA. EPA is also taking final action to approve portions of a submission from Indiana addressing EPA's requirements for its new source review (NSR) and prevention of significant deterioration (PSD) program. The proposed rulemaking was published on August 2, 2012. During the comment period, which ended on September 4, 2012, EPA received five comment letters. The concerns raised in these letters, as well as EPA's responses, will be addressed in this final action.

DATES: This final rule is effective on November 28, 2012.

ADDRESSES: EPA has established two dockets for this action under Docket ID No. EPA-R05-OAR-2009-0805 (infrastructure SIP elements for all Region 5 States) and EPA-R05-OAR-

2012–0567 (Indiana NSR/PSD elements). All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly-available only in hard copy. Publicly-available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang at (312) 886–0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0258, chang.andy@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background of these SIP submissions?
 - A. What State SIP submissions does this rulemaking address?
 - B. Why did the States make these SIP submissions?
 - C. What is the scope of this rulemaking?
- II. What is our response to comments received on the proposed rulemaking?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

I. What is the background of these SIP submissions?

A. What State SIP submissions does this rulemaking address?

This rulemaking addresses submissions from each State (and appropriate State agency) in EPA Region 5: Illinois Environmental Protection Agency (Illinois EPA); Indiana Department of Environmental Management (IDEM); Michigan Department of Environmental Quality (MDEQ); Minnesota Pollution Control Agency (MPCA); Ohio Environmental Protection Agency (Ohio EPA); and Wisconsin Department of Natural Resources Bureau of Air Management (WDNR). Each Region 5 State made SIP submissions on the following dates:

Illinois—August 9, 2011, and supplemented on August 25, 2011, and June 27, 2012; Indiana—October 20, 2009, and supplemented on June 25, 2012, and July 12, 2012; Michigan—August 15, 2011, and supplemented on July 9, 2012; Minnesota—May 23, 2011, and supplemented on June 27, 2012; Ohio—September 4, 2009, and supplemented on June 3, 2011, and July 5, 2012; and, Wisconsin—January 24, 2011, and supplemented on March 28, 2011, and June 29, 2012.¹

Indiana also made a SIP submission intended to address various EPA requirements for its NSR and PSD programs. IDEM submitted revisions on July 12, 2012, for incorporation into its NSR and PSD program, and also requested that EPA approve these revisions as satisfying any applicable infrastructure SIP requirements for the 2006 PM_{2.5} NAAQS.

B. Why did the States make these SIP submissions?

Under sections 110(a)(1) and (2) of the CAA, and implementing EPA policy, the States are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2006 PM_{2.5} NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for particulate matter already met those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards” (2007 Memo). On September 25, 2009, EPA issued an additional guidance document pertaining to the 2006 PM_{2.5} NAAQS entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)” (2009 Memo). The SIP submissions referenced in this rulemaking pertain to the applicable requirements of sections 110(a)(1) and (2) of the CAA. The SIP submissions from the six Region 5 States being evaluated here address primarily the 2006 PM_{2.5} NAAQS, with a narrow evaluation of the 1997 8-hour ozone

¹ WDNR noted in a comment letter that its initial infrastructure SIP submission was dated December 12, 2007. EPA observes, however, that the December 12, 2007, submission by WDNR only addresses the 1997 8-hour ground level ozone and 1997 PM_{2.5} NAAQS, and not the 2006 PM_{2.5} NAAQS.

NAAQS; this final rulemaking addresses only these pollutants as well.²

C. What is the scope of this rulemaking?

As originally detailed in the proposed rulemaking, the applicable infrastructure SIP requirements are contained in section 110(a)(1) and (2) of the CAA. EPA is finalizing action of each Region 5 State’s satisfaction of the applicable requirements of section 110(a)(2)(A) through section 110(a)(2)(M), except for the elements detailed in the following paragraphs.

This rulemaking will not cover four substantive areas that are not integral to acting on a State’s infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources, that may be contrary to the CAA and EPA’s policies addressing such excess emissions (“SSM”); (ii) existing provisions related to “director’s variance” or “director’s discretion” that purport to permit revisions to SIP approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (“director’s discretion”); (iii) existing provisions for minor source NSR programs that may be inconsistent with the requirements of the CAA and EPA’s regulations that pertain to such programs (“minor source NSR”); and, (iv) existing provisions for PSD programs that may be inconsistent with current requirements of EPA’s “Final NSR Improvement Rule,” 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (“NSR Reform”). Instead, EPA has indicated that it has other authority to address any such existing SIP defects in other rulemakings, as appropriate. A detailed rationale for why these four substantive areas are not part of the scope of infrastructure SIP rulemakings can be found in EPA’s July 13, 2011, final rule entitled, “Infrastructure SIP Requirements for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards” in the section entitled, “What is the scope of this final rulemaking?” (see 76 FR 41075 at 41076–41079).

In addition to the four substantive areas above, EPA is not acting in this action on portions of section 110(a)(2)(D)(i)(I)—Interstate transport; section 110(a)(2)(E)(ii)—Adequate resources; and section 110(a)(2)(J)—Consultation with government officials,

² On June 14, 2012, the EPA Administrator signed a proposed rule that would strengthen various aspects of the existing PM_{2.5} NAAQS (see 77 FR 38890). The State submittals and EPA’s rulemaking do not extend to these proposed NAAQS.

public notifications, PSD, and visibility protection. EPA stated in our proposed rulemaking that we were not proposing to act on the portion of any Region 5 State's submission intended to address the interstate transport requirements of section 110(a)(2)(D)(i)(I) (*see* 77 FR 45992 at 46000), nor were we proposing to approve or disapprove each Region 5 State's satisfaction of the state board requirements of section 110(a)(2)(E)(ii) (*see* 77 FR 45992 at 46002). We have previously finalized our rulemaking for the interstate transport requirements for Indiana and Ohio (*see* FR 43175), and we have yet to take action on the section 110(a)(2)(D)(i)(I) portion of the SIP submissions from Illinois, Michigan, Minnesota, and Wisconsin. We will also take action on compliance with section 110(a)(2)(E)(ii) for Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin at a later time. EPA is working with each of the Region 5 States to address these requirements in the most appropriate way.

With respect to the visibility protection requirements of section 110(a)(2)(J), EPA notes that these requirements are different from those in section 110(a)(2)(D)(i)(II) in that the visibility protection requirements of section 110(a)(2)(J) are not "triggered" by the promulgation of a new or updated NAAQS. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2006 PM_{2.5} NAAQS. EPA realizes that our proposed rulemaking may have engendered confusion with respect to section 110(a)(2)(J) (*see* 77 FR 45992 at 46005), and we want to clarify in this final action that the visibility protection requirements of section 110(a)(2)(J) are not germane to the infrastructure SIP for the 2006 PM_{2.5} NAAQS. EPA is also not acting on section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D, in its entirety. Instead, EPA takes action on part D attainment plans through separate processes.

Furthermore, as a result of the current status of the Cross-State Air Pollution Rule (CSAPR),³ EPA is not finalizing action on portions of the interstate transport requirements for addressing visibility protection of section 110(a)(2)(D)(i)(II) for certain Region 5 States where we had previously proposed approval; the reasoning can be found in the following section.

³ *See* <http://epa.gov/airtransport/>. Notably, the Court of Appeals for the D.C. Circuit issued an opinion vacating CSAPR on August 21, 2012, and ordering EPA to continue administering the Clean Air Interstate Rule.

We are also not finalizing our action on narrow portions of Michigan's infrastructure SIP for section 110(a)(2)(C), section 110(a)(2)(D)(i)(II), and section 110(a)(2)(J), specifically with respect to the applicable requirements obligated by EPA's final rule for the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM_{2.5})" (2008 NSR Rule) (*see* 73 FR 28321) and the "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline" (Phase 2 Rule) (*see* 70 FR 71612). On September 4, 2012, MDEQ submitted a comment letter to EPA that requires more evaluation; the specific issues are described in the following section.

Lastly, as a result of a comment received during the comment period, EPA is not finalizing action on a narrow portion of Indiana's infrastructure SIP for section 110(a)(2)(C), section 110(a)(2)(D)(i)(II), and section 110(a)(2)(J), specifically for the source impact analysis requirements of the State's PSD program as it relates to the 2006 PM_{2.5} NAAQS; the specific issues are described in the following section.

II. What is our response to comments received on the proposed rulemaking?

The public comment period for EPA's proposed action to approve most elements and disapprove narrow portions of other elements of submissions from the Region 5 States closed on September 4, 2012. EPA received five comment letters, and a synopsis of the significant individual comments contained in these letters, as well as EPA's response to each comment, is discussed below.

Comment 1: A comment letter was submitted on behalf of the Ohio Utility Group (OUG) and its member companies. While OUG generally supported EPA's proposed actions with respect to Ohio's infrastructure SIP for the 2006 PM_{2.5} NAAQS, the group recommended that EPA withdraw its prior disapproval of the portions of Ohio's infrastructure SIP addressing the interstate transport requirements of section 110(a)(2)(D)(i)(I) (*see* 76 FR 43175). Instead, OUG stated that it was EPA's intent to implement a Federal Implementation Plan (FIP) in Ohio to meet these requirements, and that the finalized CSAPR was published in the

Federal Register on August 8, 2011 (*see* 76 FR 48208), as a FIP that would simultaneously remedy and replace the Clean Air Interstate Rule (CAIR). OUG noted that CSAPR was stayed by the U.S. Court of Appeals for the District of Columbia Circuit pending judicial review on December 31, 2011, and that the court also ordered EPA to continue administering CAIR. OUG further noted that on August 21, 2012, the court vacated and remanded CSAPR back to EPA, and again ordered EPA to continue administering CAIR. Therefore, OUG believes that EPA should withdraw its prior disapproval of Ohio's interstate transport SIP, and propose approval of Ohio's submissions intended to address the requirements of section 110(a)(2)(D)(i)(I), making the emission reductions that have already occurred Federally enforceable. Lastly, OUG stated that when EPA issues a new interstate transport rule, EPA can then make a determination that the emission reductions as a result of Ohio's interstate transport SIP are insufficient and require Ohio to develop an updated SIP.

Response 1: In EPA's August 2, 2012, proposed rulemaking, we stated that we were not proposing to approve or disapprove any provisions intended to address interstate transport requirements of section 110(a)(2)(D)(i)(I) (*see* 76 FR 45992 at 46000); with respect to Ohio, EPA noted that the disapproval of portions of Ohio's infrastructure SIP for the 2006 PM_{2.5} NAAQS intended to address these requirements was finalized on July 20, 2011, and that the State did not have any SIP submission relevant to section 110(a)(2)(D)(i)(I) for the 2006 PM_{2.5} NAAQS pending before the Agency. In other words, OUG's comments are not germane to today's rulemaking.

Comment 2: One commenter noted that although EPA had proposed approval for all Region 5 States (except for Michigan) as meeting the visibility protection requirement of section 110(a)(2)(D)(i)(II), the Region 5 States' visibility SIPs relied on CSAPR to satisfy the requirement of Best Available Retrofit Technology (BART) for electric generating units. Since CSAPR has been vacated with CAIR temporarily in place, the commenter asserts that there exists no current and permanent cross state air pollution rule for EPA and the Region 5 States to rely on to satisfy the visibility protection requirements of section 110(a)(2)(D)(i)(II), which includes BART limits for electric generating units. Therefore, EPA must disapprove the portions of infrastructure SIPs intended to address the visibility

protection requirements of section 110(a)(2)(D)(i)(II).

Response 2: The 2009 Memo recommends to states that the visibility protection requirements of section 110(a)(2)(D)(i)(II) can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, and an approved SIP addressing regional haze.⁴ The commenter is correct in stating that if Region 5 States' regional haze plans relied on CSAPR in the context of BART and electric generating units, the visibility protection requirements of section 110(a)(2)(D)(ii) would not be met because CSAPR has been vacated. However, the commenter is incorrect in his characterization of Illinois' regional haze plan. Specifically, Illinois has two sets of provisions in its SIP rules that meet the BART requirement of electric generating units⁵ without relying on CSAPR (or CAIR). EPA's final approval of Illinois' regional haze plan was published on July 6, 2012, (see 76 FR 39943) and affirms that existing provisions in Illinois satisfy the BART requirement.

In today's rulemaking, EPA is not finalizing our proposed approval of the visibility protection requirements of section 110(a)(2)(D)(i)(II) for Indiana, Ohio, Minnesota, and Wisconsin. EPA is also not taking any action on the visibility protection requirements of section 110(a)(2)(D)(i)(II) for Michigan. EPA will take action on these States' SIPs in a separate rulemaking. However, EPA is finalizing approval of Illinois' satisfaction of the visibility protection requirements of section 110(a)(2)(D)(ii) in this rulemaking.

Comment 3: The same commenter stated that the Indiana SIP is insufficient for purposes of the State's PSD program for the 2006 PM_{2.5} NAAQS. The commenter observes that 326 Indiana Administrative Code (IAC) 2-2-5(a)(1) requires an analysis of a new or modified source's emissions demonstrating that the emissions will not cause or contribute to air pollution in violation of any ambient air quality standard, as designated in 326 IAC 1-3. The language contained in 326 IAC 1-3 explicitly references only the 1997 PM_{2.5} NAAQS, and not the 2006 PM_{2.5} NAAQS of 35 micrograms per cubic meter. Therefore, a literal read of

Indiana's PSD regulations indicates that a source impact analysis would only need to comply with the 1997 PM_{2.5} NAAQS. The commenter did note that 326 IAC 2-1.1-5 contains language that would prohibit issuance of a registration, permit, modification approval, or operating permit revision if issuance would allow a source to cause or contribute to a violation of the NAAQS. 326 IAC 2-1.1-5 is currently not in the SIP, and the language contained therein has not been submitted by Indiana for incorporation into the SIP.

Response 3: After evaluating the commenter's points, EPA agrees that the State's EPA-approved PSD SIP contained in 326 IAC 2-2-5(a) only requires a source impact analysis for PM_{2.5} to comply with the 1997 PM_{2.5} NAAQS, and not the 2006 PM_{2.5} NAAQS. 326 IAC 2-2-5(a) states that "The owner or operator of the proposed major stationary source or major modification shall demonstrate that allowable emissions increases in conjunction with all other applicable emissions increases or reductions (including secondary emissions) will not cause or contribute to air pollution in violation of any: (1) Ambient air quality standard, as designated in 326 IAC 1-3, in any air quality control region * * * 326 IAC 1-3-4 contains the ambient air quality standards as they apply in Indiana; the 2006 PM_{2.5} NAAQS as codified in 40 CFR 50.13, has not been incorporated into this section. IDEM has informed EPA that the State is in the process of adopting revisions to its SIP, specifically contained in IAC 326 1-3-4, to incorporate the 2006 PM_{2.5} NAAQS as codified in 40 CFR 50.13. EPA is therefore not finalizing any action on this narrow portion of section 110(a)(2)(C) for Indiana's infrastructure SIP for the 2006 PM_{2.5} NAAQS; we will address the PSD source impact analysis requirements of section 110(a)(2)(C) for the 2006 PM_{2.5} NAAQS in a separate rulemaking. EPA notes that there are also PSD requirements associated with section 110(A)(2)(D)(i)(II) and section 110(a)(2)(J). As a result, we are also not finalizing any action on this narrow portion of section 110(a)(2)(D)(i)(II) and section 110(a)(2)(J) for Indiana's infrastructure SIP for the 2006 PM_{2.5} NAAQS; we will address the same PSD source impact analysis requirements for the 2006 PM_{2.5} NAAQS in the same action for section 110(a)(2)(C).

Comment 4: The same commenter as above also stated that Wisconsin's PSD SIP does not contain the maximum allowable increases in ambient pollutant concentrations (increments) for PM_{2.5}.

The final rule for the "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5})—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)" requiring states to incorporate increments into their PSD SIPs was published in the **Federal Register** on October 20, 2010 (2010 NSR Rule) (see 75 FR 64864). This requirement was also codified in 40 CFR 51.166(c) and 40 CFR 52.21(c). The 2010 NSR Rule required states to submit revisions to their SIPs addressing this required program element by July 20, 2012 (see 75 FR 64864 at 64898). Therefore, because Wisconsin had not made revisions to its PSD SIP incorporating the increments by the deadline prescribed by the 2010 NSR Rule, EPA must disapprove the appropriate portions of the infrastructure SIP for the 2006 PM_{2.5} NAAQS. The commenter did state that WDNR has applied the appropriate increments when issuing PSD permits.

Response 4: The commenter asserts that EPA should now disapprove portions of Wisconsin's infrastructure SIP for the 2006 PM_{2.5} NAAQS because, since the date of EPA's proposal, the deadline for the submission of a SIP revision addressing the PM_{2.5} increments has passed. However, pursuant to the 2010 NSR Rule and CAA section 166(b), states were not required to submit a revised SIP addressing the PM_{2.5} increments until July 20, 2012. The Agency proposed action on the Wisconsin infrastructure SIP for the 2006 PM_{2.5} NAAQS in a notice signed on July 20, 2012.⁶ Therefore, on the date that the proposed rule was signed by the Agency, the PM_{2.5} increments were not required to be included in the Wisconsin SIP in order for Wisconsin to meet the PSD requirements of sections 110(a)(2)(C), (D)(i)(II), and (J) of the CAA.

The commenter's concerns relate to the timing of Agency action on collateral, yet related, SIP submissions. These concerns highlight an important overarching question that the EPA has to confront when assessing the various infrastructure SIP submissions addressed in the proposed rule: How to proceed when the timing and sequencing of multiple related SIP submissions impact the ability of the State and the Agency to address certain substantive issues in

⁴ EPA notes that the 2009 Memo distinguishes section 110(a)(2)(D)(i)(II) from the visibility element of section 110(a)(2)(J), which EPA believes is not germane in infrastructure SIPs for this NAAQS.

⁵ The Combined Pollutant Standards are contained in 35 Illinois Administrative Code 225.233, and the Multi-Pollutant Standards are contained in 35 Illinois Administrative Code 225.293-225.299.

⁶ Although the proposed action was published by the **Federal Register** on August 2, 2012, it was signed by the Regional Administrator on July 20, 2012, before the statutory deadline for submission of the SIP revision addressing the PM_{2.5} increments had passed.

the infrastructure SIP submission in a reasonable fashion.

It is appropriate for EPA to take into consideration the timing and sequence of related SIP submissions as part of determining what it is reasonable to expect a State to have addressed in an infrastructure SIP submission for a NAAQS at the time when the EPA acts on such submission. EPA has historically interpreted section 110(a)(2)(C), section 110(a)(2)(D)(i)(II), and section 110(a)(2)(J) to require us to assess a State's infrastructure SIP submission with respect to the then-applicable and Federally enforceable PSD regulations required to be included in a State's SIP at the time EPA takes action on the SIP.

However, EPA does not consider it reasonable to interpret section 110(a)(2)(C), section 110(D)(i)(II), and section 110(a)(2)(J) to require us to propose to disapprove a State's infrastructure SIP submissions because the State had not yet, at the time of proposal, made a submission that was not yet due for the 2010 PM_{2.5} NSR Rule. To adopt a different approach by which EPA could not act on an infrastructure SIP, or at least could not approve an infrastructure SIP, whenever there was any impending revision to the SIP required by another collateral rulemaking action would result in regulatory gridlock and make it impracticable or impossible for EPA to act on infrastructure SIPs if EPA is in the process of revising collateral PSD regulations. EPA believes that such an outcome would be an unreasonable reading of the statutory process for the infrastructure SIPs contemplated in section 110(a)(1) and (2).

EPA acknowledges that it is important that these additional PSD program revisions be evaluated and approved into the State's SIP in accordance with the CAA, and EPA intends to address the PM_{2.5} increments in a subsequent rulemaking. EPA appreciates the commenter's point that Wisconsin has been applying the appropriate increments consistent with the requirements codified in 40 CFR 52.21(c), and we will actively work with the State to ensure that these increments are correctly evaluated in permitting decisions. Furthermore, we will work with Wisconsin to ensure that revisions to its SIP incorporating these increments will be wholly consistent with the requirements obligated by the 2010 NSR Rule, as codified in 40 CFR 51.166(c) and 40 CFR 52.21(c).

Comment 5: The same commenter as above agreed with EPA's proposed disapproval of portions of Wisconsin's infrastructure SIP for the 2006 PM_{2.5}

NAAQS with respect to the explicit identification and regulation of condensable PM_{2.5} and PM₁₀ in its PSD program.⁷ Wisconsin's existing SIP contained in Wisconsin Administrative Code NR 400.02(123e)—NR 400.02(124) does not contain the explicit references to condensables in PM_{2.5} and PM₁₀ emissions, as obligated by the 2008 NSR Rule. Furthermore, revisions to its PSD program submitted by WDNR on May 11, 2011, do not contain the explicit identification or regulation of PM_{2.5} and PM₁₀ condensables. However, the commenter notes that WDNR has been including condensable fraction of particulate matter in permits for facilities for many years, as alluded to in NR 415.09. The commenter suggests that EPA clarify that a final disapproval of Wisconsin's infrastructure SIP for the 2006 PM_{2.5} NAAQS with respect to the explicit identification and regulation of PM_{2.5} and PM₁₀ condensables does "not negate or otherwise undermine the fact that all limits in all existing permits in Wisconsin already include condensable PM."

Response 5: EPA appreciates the commenter's point that WDNR has historically considered some condensable PM in its permits. The SIP-approved portions of NR 415.09 include references to condensable particulate matter, as defined in NR 439.02(4). NR 439 contains the requirements for reporting, recordkeeping, testing, inspection, and determination of compliance for air contaminant sources and their owners and operators. Specifically, NR 439.02(4) defines "condensable[sic] particulate matter" as "any material, except uncombined water, that may not be collected in the front half of the particulate emission sampling train but which exists as a solid or liquid at standard conditions." EPA agrees that WDNR has the authority to regulate some condensables, and also agrees with the commenter that a final disapproval of portions of Wisconsin's infrastructure SIP for the 2006 PM_{2.5} NAAQS with respect to the explicit identification and regulation of PM_{2.5} and PM₁₀ condensables does not negate that WDNR has considered some condensable particulate matter in its permits. However, at this point in time, the State has not revised its SIP to contain the required explicit references to condensables that are necessary for purposes of the PSD program, and to make that requirement a Federally enforceable part of the State's SIP. EPA will continue to work with the State to

develop SIP revisions that account for PM_{2.5} and PM₁₀ condensables in applicability determinations and permitting emissions limits, consistent with the 2008 NSR Rule. In the interim, we expect the State to correctly account for these condensables in applicability determinations and permitting emissions limits.

Comment 6: MDEQ submitted a comment letter to EPA affirming that the State is adopting revisions to its rules that would be wholly consistent with the required infrastructure SIP requirements obligated by the 2008 NSR Rule and the Phase 2 Rule. MDEQ stated that the necessary revisions would be submitted to EPA imminently for incorporation into the SIP, specifically before the end of 2012, and also included the draft rules reflecting the appropriate revisions. The State urged EPA to issue a conditional approval for the relevant portions of its infrastructure SIP for the 2006 PM_{2.5} NAAQS in lieu of finalizing a narrow disapproval.

Response 6: EPA appreciates MDEQ's efforts in adopting revisions to its SIP to be wholly consistent with the required infrastructure SIP requirements obligated by the 2008 NSR Rule and the Phase 2 Rule. In our proposed rulemaking addressing the relevant requirements, EPA noted that the State is in the process of adopting required revisions to its regulations to: Address pollutants responsible for the secondary formation of PM_{2.5}, i.e., precursors;⁸ account for condensables in PM_{2.5} and PM₁₀ applicability determinations and emission limits in NSR permits; and, explicitly identify oxides of nitrogen (NO_x) as a precursor to ozone (see FR 77 45995 at 45996–45998). EPA believes that MDEQ's specific commitments, including the revisions in progress specific to the applicable requirements of the 2008 NSR Rule and the Phase 2 Rule, as well as the time frame noted, i.e., prior to the end of 2012, require more evaluation. Therefore, in today's rulemaking, EPA is not finalizing our proposed disapproval of portions of Michigan's infrastructure SIP for the 2006 PM_{2.5} NAAQS with respect to the PSD requirements contained in section

⁸In the 2008 NSR Rule, EPA identified precursors to PM_{2.5} for the PSD program to be sulfur dioxide (SO₂) and NO_x (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_x emissions in an area are not a significant contributor to that area's ambient PM_{2.5} concentrations). The 2008 NSR Rule also specifies that volatile organic compounds (VOCs) are not considered to be precursors to PM_{2.5} in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient PM_{2.5} concentrations.

⁷"Condensables" are defined as gases that at ambient temperatures, could condense to form particulate matter.

110(a)(2)(C), section 110(a)(2)(D)(i)(II), and section 110(a)(2)(J) to: Identify the precursors to PM_{2.5} consistent with the requirements of the 2008 NSR Rule; account for PM_{2.5} and PM₁₀ condensables in applicability determinations and emissions limits for permits consistent with the 2008 NSR Rule; and, identify NO_x as a precursor to ozone consistent with the Phase 2 Rule. EPA will address Michigan's satisfaction of these requirements in a separate rulemaking. In the interim, however, EPA expects Michigan to adhere to the requirements of the 2008 NSR Rule with respect to the treatment and identification of PM_{2.5} precursors and the accounting for PM_{2.5} and PM₁₀ condensables in applicability determinations and permitting emissions limits in its PSD program. We also expect Michigan to treat and explicitly identify NO_x as a precursor to ozone for PSD permitting, consistent with the requirements of the Phase 2 Rule.

Comment 7: Ohio EPA submitted a comment letter to EPA disagreeing with our proposed disapproval of portions of its infrastructure SIP for the 2006 PM_{2.5} NAAQS intended to address the relevant requirements obligated by the 2008 NSR Rule and the Phase 2 Rule. Ohio EPA observes that EPA proposed a narrow disapproval of portions of its infrastructure SIP intended to meet the PSD requirements of section 110(a)(2)(C): Identifying PM_{2.5} precursors; identifying PM_{2.5} and PM₁₀ condensables in the PSD program; and, identifying NO_x as a precursor to ozone. Ohio notes that our proposed rulemaking states that “the infrastructure SIP requirements are designed to ensure that the structural components of each State’s air quality management program are adequate to meet the State’s responsibilities under the CAA.” Ohio also notes that under section 110(a)(2)(C), states are required to “include a program” for the regulation of the modification and construction of any stationary source to assure that NAAQS are achieved, including a permit program as required under parts C and D. Citing Ohio Revised Code (ORC) 3704.03, the State argues that the director of Ohio EPA has the authority to implement Ohio’s NSR program contained in Ohio Administrative Code (OAC) 3745–31. Specifically, OAC 3745–31–01 defines “regulated NSR pollutant” as including any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the administrator. Therefore, under

this authority, Ohio EPA has been applying its PSD program in accordance with the 2008 NSR Rule and the Phase 2 Rule, and as a result—Ohio EPA meets the requirement of section 110(a)(2)(C) to “include a program” that meets parts C and D. Ohio EPA asserts that EPA must approve these elements of Ohio’s SIP because the State has met the infrastructure SIP requirements for including a program that assures the PM_{2.5} NAAQS is addressed in Ohio’s permit program, even absent Ohio submitting revisions to its PSD regulations as mandated by the 2008 NSR Rule and Phase 2 Rule.

Response 8: While it is true that Ohio EPA has included a program under parts C and D of the CAA in its SIP, and that EPA has approved various aspects of the State’s PSD program in the past,⁹ EPA explained in our proposed rulemaking that the 2008 NSR Rule and Phase 2 Rule now obligate states to make explicit regulatory changes in order to clarify and remove any ambiguity concerning the requirements to specifically identify PM_{2.5} precursors, to properly account for PM_{2.5} and PM₁₀ condensables, and to treat NO_x as a precursor to ozone in permitting contexts. EPA recognizes that Ohio currently has some authority to treat SO₂ and NO_x as presumed precursors to PM_{2.5}, and in a similar manner, to treat NO_x as a precursor to ozone in permitting decisions. Our proposed rulemaking also recognized that Ohio EPA is in the process of adopting revisions to its PSD program to be wholly consistent with the applicable infrastructure SIP requirements obligated by the 2008 NSR Rule and Phase 2 Rule (*see* FR 77 45995 at 45996–45998). EPA’s regulations as codified in 40 CFR 51.166(b)(49)(i) and 40 CFR 52.21(b)(50)(i) for PM_{2.5} precursors, and 40 CFR 51.166(b)(49)(vi) and 40 CFR 52.21(b)(50)(vi) for PM_{2.5} and PM₁₀ condensables, required states to make specific revisions by May 16, 2011 (*see* 73 FR 28321 at 28341). Because Ohio has not yet made these required revisions, however, EPA is finalizing a disapproval of these narrow portions of Ohio’s infrastructure SIP for the 2006 PM_{2.5} NAAQS. Likewise, the changes obligated by the Phase 2 Rule to explicitly identify NO_x as a precursor to ozone and codified in 40 CFR 51.166(b)(1)(ii), 40 CFR 51.166(b)(2)(ii), 40 CFR 51.166(b)(23)(i), 40 CFR 51.166(49)(i), and footnote 1 to 40 CFR 51.166(i)(5)(i)(e) required states to submit specific revisions to EPA by June 15, 2007 (*see* 70 FR 71612 at 71683).

⁹ *See, e.g.,* <http://www.epa.gov/reg50air/permits/const/frn-nsr.html>.

Because Ohio has not yet made these required revisions, EPA is finalizing a disapproval of this narrow portion of Ohio’s infrastructure SIP for the 2006 PM_{2.5} NAAQS.¹⁰ EPA will work actively with the State to ensure that the necessary SIP revisions are completed as expeditiously as possible. In the interim, we expect the State to adhere to the requirements of the 2008 NSR Rule with respect to the treatment and identification of PM_{2.5} precursors and the accounting for PM_{2.5} and PM₁₀ condensables applicability determinations and permitting emissions limits in its PSD program. We also expect Ohio to treat and explicitly identify NO_x as a precursor to ozone for PSD permitting consistent with the requirements of the Phase 2 Rule.

Comment 9: WDNR submitted a comment letter to EPA disagreeing with our proposed disapproval of portions of its infrastructure SIP for the 2006 PM_{2.5} NAAQS intended to address the relevant requirements obligated by the 2008 NSR Rule. WDNR states that EPA proposed a narrow disapproval of portions of its infrastructure SIP intended to meet the PSD requirements of section 110(a)(2)(C): Identifying PM_{2.5} precursors; and, identifying PM_{2.5} and PM₁₀ condensables in the PSD program.

Wisconsin notes that our proposed rulemaking states that “the infrastructure SIP requirements are designed to ensure that the structural components of each State’s air quality management program are adequate to meet the State’s responsibilities under the CAA.” Wisconsin also notes that under section 110(a)(2)(C), states are required to “include a program” for the regulation of the modification and construction of any stationary source to assure that NAAQS are achieved, including a permit program as required under parts C and D of CAA section 110(A)(2). Wisconsin argues that its infrastructure SIP submissions have clearly stated that WDNR has the resources and authorities necessary to implement and satisfy the requirements of section 110(a)(1) and (2) of the CAA for PM_{2.5} and PM₁₀.

Citing the definition of “regulated NSR air contaminant” in Wisconsin Administrative Code NR 405.02(25i) as including “any contaminant for which a national ambient air quality standard has been promulgated and any

¹⁰ EPA has also taken other actions germane to the explicit identification of NO_x as a precursor to ozone in Federally approved PSD programs, e.g., “Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone NAAQS” (*see* 73 FR 16205), and “Partial Disapproval of “Infrastructure” State Implementation Plan” for Wisconsin (77 FR 35870).

constituents or precursors for the air contaminant identified by the administrator," the State asserts that it has been applying the PSD program in accordance with the explicit identification of precursor(s) to PM_{2.5} and ozone, consistent with the 2008 NSR Rule and Phase 2 Rule.

Furthermore, the State observes that all permits issued by WDNR address these requirements as codified by EPA, or through EPA guidance under the authority provided in Wisconsin State Statute and Wisconsin Administrative Code. WDNR therefore contends that it has met the requirements of section 110(a)(2)(C) to include a program that meets part C and D.

WDNR also notes that it has been accounting for condensable particulate matter in its PSD permitting program since the beginning of the program; particulate matter and particulate matter emissions have been defined to include condensables since 1989 and have been a part of the approved SIP since 1993. Wisconsin asserts that EPA must approve these elements of Wisconsin's infrastructure SIP, because WDNR has met the applicable requirements.

Response 9: While it is true that WDNR has included a program required under parts C and D of the CAA in its SIP, and EPA has approved various aspects of the State's PSD program in the past,¹¹ EPA explained in our proposed rulemaking that the 2008 NSR Rule and Phase 2 Rule now obligate states to make explicit regulatory changes in order to clarify and remove any ambiguity concerning the requirements to explicitly identify PM_{2.5} precursors, to properly account for PM_{2.5} and PM₁₀ condensables, and to treat NO_x as a precursor to ozone in permitting contexts.¹² Our proposed rulemaking referenced Wisconsin's definition of "regulated NSR air contaminant" as providing generic language to define what constitutes a regulated NSR pollutant; however, the State's current rules do not contain provisions that would directly account for PM_{2.5} and its precursors in NSR permitting. EPA's regulations as codified in 40 CFR 51.166(b)(49)(i) and 40 CFR 52.21(b)(50)(i) for PM_{2.5} precursors, required states to make specific revisions by May 16, 2011. Because Wisconsin has not yet made these required revisions, EPA is finalizing a disapproval of this narrow portion of Wisconsin's infrastructure

SIP for the 2006 PM_{2.5} NAAQS with respect to the explicit identification of PM_{2.5} precursors. With respect to accounting for particulate matter condensables in its PSD permitting program, EPA recognizes that Wisconsin Administrative Code NR 439 contains the requirements for reporting, recordkeeping, testing, inspection, and determination of compliance for air contaminant sources and their owners and operators. Of note, NR 439.02(4) defines "condensable [sic] particulate matter" as "any material, except uncombined water, that may not be collected in the front half of the particulate emission sampling train but which exists as a solid or liquid at standard conditions." However, Wisconsin's current SIP does not contain the explicit language to account for PM_{2.5} and PM₁₀ condensables in applicability determinations and permitting decisions, as required by 40 CFR 51.166(b)(49)(vi) and 40 CFR 52.21(b)(50)(vi), and to date, the State has not made a submission with such revisions. As a result of EPA's own regulations and the May 16, 2011 deadline for submitting revisions consistent with the 2008 NSR Rule, we are finalizing the disapproval of this narrow portion of Wisconsin's infrastructure SIP for the 2006 PM_{2.5} NAAQS with respect to the explicit regulation of PM_{2.5} and PM₁₀ condensables in permits. EPA will work actively with the State to ensure that the necessary SIP revisions are completed as expeditiously as possible. We will work with Wisconsin to rectify these issues promptly, and in the interim, we expect the State to adhere to the requirements of the 2008 NSR Rule with respect to the treatment and identification of PM_{2.5} precursors and the accounting for PM_{2.5} and PM₁₀ condensables in applicability determinations and permitting emissions limits in its PSD program. Although not germane to this action, we also expect Wisconsin to treat and explicitly identify NO_x as a precursor to ozone for PSD permitting consistent with the requirements of the Phase 2 Rule.

III. What action is EPA taking?

For the reasons discussed in the proposed rulemaking, EPA is taking final action to approve most elements and disapprove narrow portions of other elements of submissions from the EPA

Region 5 States certifying that the current SIPs are sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2006 PM_{2.5} NAAQS. EPA is also taking final action to approve portions of a submission from Indiana intended to meet EPA's requirements for the NSR and PSD programs in that State. Specifically, they are: (i) 326 IAC 2-1.1-1(2); (ii) 326 IAC 2-1.1-1(10); (iii) 326 IAC 2-2-1(dd)(1); (iv) 326 IAC 2-2-1(ff)(7); (v) 326 IAC 2-2-1(ss)(1); (vi) 326 IAC 2-2-1(ww)(1)(F); (vii) 326 IAC 2-2-1(ww)(1)(G); and, (viii) 326 IAC 2-2-4(b)(2)(vi). As detailed in our proposed rulemaking, these revisions are wholly consistent with the infrastructure SIP requirements associated with the 2008 NSR Rule and the Phase 2 Rule.

Due to the current status of CSAPR, EPA is not finalizing our previously proposed approval for the interstate transport requirements addressing visibility protection of section 110(a)(2)(D)(i)(II) for Indiana, Ohio, Minnesota, and Wisconsin for the 2006 PM_{2.5} NAAQS. EPA is also not taking any action on Michigan's satisfaction of these requirements. As explained in the comments and responses section, EPA is finalizing our previously proposed approval of Illinois' infrastructure SIP for the interstate transport requirements addressing visibility protection of section 110(a)(2)(D)(i)(II).

As a result of a comment letter submitted by the State of Michigan, EPA is not finalizing our previously proposed disapproval of narrow portions of section 110(a)(2)(C), section 110(a)(2)(D)(i)(II), and section 110(a)(2)(J) for the State. Instead, EPA will address Michigan's satisfaction of the applicable PSD requirements obligated by the 2008 NSR Rule and the Phase 2 Rule in a separate rulemaking. Lastly, as a result of a comment received during the public comment period, EPA is not finalizing its proposed approval of the submission from Indiana with respect to one narrow issue that relates to section 110(a)(2)(C), (D)(i)(II), and (J). Specifically, EPA will address the PSD source impact analysis requirements for the 2006 PM_{2.5} NAAQS in the State of Indiana in a later action.

EPA's final actions for each Region 5 State's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) are contained in the table below.

¹¹ See, e.g., <http://www.epa.gov/reg5oair/permits/const/frn-nsr.html>.

¹² Note that EPA has already finalized the disapproval of narrow portions of Wisconsin's infrastructure SIP for the 1997 ozone and PM_{2.5}

NAAQS with respect to the NO_x as a precursor to ozone provisions per the Phase 2 Rule (see 77 FR 35870).

Element	IL	IN ¹³	OH	MI	MN	WI
A: Emission limits and other control measures	A	A	A	A	A	A
B: Ambient air quality monitoring and data system	A	A	A	A	A	A
C1: Enforcement of SIP measures	A	A	A	A	A	A
C2: PM _{2.5} precursors for PSD	*D	A	D	NA	*D	D
C3: PM _{2.5} and PM ₁₀ condensables for PSD	*D	A	D	NA	*D	D
C4: NO _x as a precursor to ozone for PSD	*D	A	D	NA	*D	NA
C5: GHG permitting thresholds in PSD regulations	*D	A	A	A	*D	A
D1: Contribute to nonattainment/interfere with maintenance of NAAQS	NA	NA	NA	NA	NA	NA
D2: PSD	**	**	**	**	**	**
D3: Visibility Protection	A	NA	NA	NA	NA	NA
D4: Interstate Pollution Abatement	*D	A	A	A	*D	A
D5: International Pollution Abatement	A	A	A	A	A	A
E: Adequate resources	A	A	A	A	A	A
E: State boards	NA	NA	NA	NA	NA	NA
F: Stationary source monitoring system	A	A	A	A	A	A
G: Emergency powers	A	A	A	A	A	A
H: Future SIP revisions	A	A	A	A	A	A
I: Nonattainment area plan or plan revisions under part D	NA	NA	NA	NA	NA	NA
J1: Consultation with government officials	A	A	A	A	A	A
J2: Public notification	A	A	A	A	A	A
J3: PSD	**	**	**	**	**	**
J4: Visibility protection	+	+	+	+	+	+
K: Air quality modeling and data	A	A	A	A	A	A
L: Permitting fees	A	A	A	A	A	A
M: Consultation and participation by affected local entities	A	A	A	A	A	A

In the above table, the key is as follows:

- A Approve.
- NA No Action/Separate Rulemaking.
- D Disapprove.
- + Not relevant in these actions.
- * Federally promulgated rules in place.
- ** Previously discussed in element (C).

As originally described in the proposed rulemaking, EPA is finalizing disapproval of the infrastructure SIP submissions from Illinois and Minnesota with respect to certain PSD requirements including: (i) The explicit identification of SO₂ and NO_x as PM_{2.5} precursors consistent with the requirements of the 2008 NSR Rule; (ii) the regulation of PM_{2.5} and PM₁₀ condensables consistent with the requirements of the 2008 NSR Rule; (iii) the explicit identification of NO_x as a precursor to ozone consistent with the Phase 2 Rule; and, (iv) permitting of GHG emitting sources at the Federal Tailoring Rule thresholds.

EPA is also finalizing the disapproval of the infrastructure SIP submissions from Illinois and Minnesota with respect to the requirements of section 110(a)(2)(D)(ii) related to interstate pollution abatement. Specifically, this section requires states with PSD programs have provisions requiring a new or modified source to notify neighboring states of the potential impacts from the source, consistent with the requirements of section 126(a).

¹³ In addition to the information provided in this table for the State of Indiana, EPA reiterates once again that we are not finalizing any action with respect to the PSD source impact analysis requirements of section 110(a)(2)(C), (D)(i)(II), and (J) for the 2006 PM_{2.5} NAAQS.

However, Illinois and Minnesota have no further obligations as a result of this disapproval because Federally promulgated rules, promulgated at 40 CFR 52.21 are in effect in each of these States. EPA has delegated the authority to Illinois and Minnesota to administer these rules, which include provisions related to PSD and interstate pollution abatement. This final disapproval for Illinois and Minnesota for these infrastructure SIP requirements will not result in sanctions under section 179(a), nor will it obligate EPA to promulgate a FIP within two years of final action if the States do not submit revisions to their PSD SIPs addressing these deficiencies. Instead, Illinois and Minnesota are already subject to the Federally promulgated PSD regulations, and both States administer these regulations via EPA's delegated authority.

The grounds for EPA's final disapproval of portions of the infrastructure SIP submittals from Ohio and Wisconsin are very narrow, and pertain only to these specific deficiencies in the States' SIPs described in the relevant sections of the proposed rulemaking, as well as in the responses to comments section of today's rulemaking.

As previously discussed, EPA believes that Ohio has been actively preparing necessary revisions to its PSD

program, consistent with the requirements of the Phase 2 Rule and the 2008 NSR Rule. We will work with the State to rectify these issues promptly. In addition, EPA will work with WDNR to account for the explicit identification of precursors to PM_{2.5}, as well as PM_{2.5} and PM₁₀ condensables, in its PSD program.¹⁴

Under section 179(a) of the CAA, final disapproval of a submission that addresses a requirement of a Part D Plan (section 171–section 193 of the CAA), or is required in response to a finding of substantial inadequacy as described in section 110(k)(5) starts a sanction clock. The provisions in the submissions we are disapproving were not submitted by Ohio or Wisconsin to meet either of those requirements. Therefore, no sanctions under section 179 will be triggered.

The full or partial disapproval of a SIP revision triggers the requirement under section 110(c) that EPA promulgate a FIP no later than two years from the date of the disapproval unless the State corrects the deficiency, and the Administrator approves the plan or plan revision before the Administrator

¹⁴ Although not specific to this action, EPA will also continue to work with WDNR to ensure that revisions to the State's PSD program contain provisions that explicitly identify NO_x as a precursor to ozone, consistent with the Phase 2 Rule.

promulgates such FIP. As detailed in the proposed rulemaking, EPA anticipates that Ohio EPA will make submissions rectifying each of the deficiencies that are the basis for the disapprovals in this action. Further, EPA anticipates acting on the anticipated submissions from the State within the two year time frame prior to our FIP obligation on these very narrow issues. In the interim, EPA expects Ohio to treat and explicitly identify NO_x as a precursor to ozone for PSD permitting consistent with the requirements of the Phase 2 Rule. EPA also expects the State to adhere to the requirements of the 2008 NSR Rule with respect to the treatment and identification of PM_{2.5} precursors and the accounting for PM_{2.5} and PM₁₀ condensables in applicability determinations and permitting emissions limits in its PSD program.

EPA will actively work with Wisconsin to incorporate changes to its PSD program that explicitly identify PM_{2.5} precursors and account for PM_{2.5} and PM₁₀ condensables in applicability determinations and permitting emissions limits, consistent with the 2008 NSR Rule. In the interim, EPA expects WDNR to adhere to the associated requirements of the 2008 NSR Rule in its PSD program, specifically with respect to the explicit identification of PM_{2.5} precursors, and the accounting for PM_{2.5} and PM₁₀ condensables in applicability determinations and permitting emissions limits.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

EPA-APPROVED INDIANA REGULATIONS

reference, Intergovernmental relations, Particulate Matter, Reporting and recordkeeping requirements.

Dated: September 26, 2012.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

■ 2. Section 52.731 is amended by adding paragraph (c) to read as follows:

§ 52.731 Section 110(a)(2) infrastructure requirements.

* * * * *

(c) Approval and Disapproval—In an August 9, 2011, submittal, and supplemented on August 25, 2011, and June 27, 2012, Illinois certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2006 24-hour PM_{2.5} NAAQS. EPA is not taking action on (D)(i)(I) and the state board requirements of (E)(ii). Although EPA is disapproving portions of Illinois' submission addressing the prevention of significant deterioration, Illinois continues to implement the Federally promulgated rules for this purpose as they pertain to (C), (D)(i)(II), (D)(ii), and (J).

■ 3. In § 52.770:

■ a. The table in paragraph (c) is amended by adding an entry in numerical order for "2-1.1-1", and revising the entries for "2-2-1", and "2-2-4".

■ b. The table in paragraph (e) is amended by adding entries in alphabetical order for "Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM_{2.5} NAAQS".

The revised and added text reads as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
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*	*	*	*	*
2-1.1-1	Definitions	July 11, 2012	October 29 2012, [Insert page number where the document begins].	(2) and (10) only.

EPA-APPROVED INDIANA REGULATIONS—Continued

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
2-2-1	Definitions	July 11, 2012	October 29 2012, [Insert page number where the document begins].	(dd)(1), (ff)(7), (ss)(1), (ww)(1)(F), and (ww)(1)(G) only.
2-2-4	Air quality analysis; requirements ..	July 11, 2012	October 29 2012, [Insert page number where the document begins].	(b)(2)(vi) only.

* * * * * (e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM _{2.5} NAAQS.	10/20/2009, 6/25/2012, 7/12/2012.	10/29/2012, [Insert page number where the document begins].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We are not finalizing action on the PSD source impact analysis requirements of section 110(a)(2)(C), (D)(i)(II), and (J), the visibility protection requirements of (D)(i)(II), and the state board requirements of (E)(ii). We will address these requirements in a separate action.

■ 4. In § 52.1170, the table in paragraph (e) is amended by adding an entry at the end of the table for “Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM_{2.5} NAAQS” to read as follows: **§ 52.1170 Identification of plan.**
* * * * * (e) * * *

EPA-APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM _{2.5} NAAQS.	Statewide	8/15/2011, 7/9/2012	10/29/2012, [Insert page number where the document begins].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We are not taking action on the visibility protection requirements of (D)(i)(II) and the state board requirements of (E)(ii). We will address these requirements in a separate action. We are taking no action on portions of Michigan’s infrastructure SIP submission addressing the relevant prevention of significant deterioration requirements of the 2008 NSR Rule (identifying PM _{2.5} precursors, and the regulation of PM _{2.5} and PM ₁₀ condensables in permits) and the Phase 2 Rule (identification of NO _x as a precursor to ozone) with respect to section 110(a)(2)(C), (D)(i)(II), and (J).

■ 5. In § 52.1220, the table in paragraph (e) is amended by adding an entry in alphabetical order for “Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM_{2.5} NAAQS” to read as follows: **§ 52.1220 Identification of plan.**
* * * * * (e) * * *

EPA-APPROVED MINNESOTA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Comments
* Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour Ozone NAAQS.	* Statewide	* 5/23/2011, 6/27/2012 (submittal dates).	* 10/29/2012, [Insert page number where the document begins].	* This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We are not finalizing action on the visibility protection requirements of (D)(i)(II) or the state board requirements of (E)(ii). We will address these requirements in a separate action. Although EPA is disapproving portions of Minnesota's submission addressing the prevention of significant deterioration, Minnesota continues to implement the Federally promulgated rules for this purpose as they pertain to section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J).
* 	* 	* 	* 	*

■ 6. Section 52.1891 is amended by adding paragraph (c) to read as follows:

§ 52.1891 Section 110(a)(2) infrastructure requirements.

* * * * *

(c) Approval and Disapproval—In a September 4, 2009 submittal, supplemented on June 3, 2011, and July 5, 2012, Ohio certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2006 24-hour PM_{2.5} NAAQS. We are not finalizing action on the visibility protection requirements of (D)(i)(II) or the state board requirements of (E)(ii). We will address these requirements in a separate action. We are disapproving narrow portions of Ohio's infrastructure SIP submission addressing the relevant prevention of significant deterioration requirements of the 2008 NSR Rule (identifying PM_{2.5} precursors, and the regulation of PM_{2.5} and PM₁₀ condensables in permits) and the Phase 2 Rule (identification of NO_x as a precursor to ozone) with respect to section 110(a)(2)(C), (D)(i)(II), and (J).

■ 7. Section 52.2591 is amended by adding paragraph (e) to read as follows:

§ 52.2591 Section 110(a)(2) infrastructure requirements.

* * * * *

(e) Approval and Disapproval—In a January 24, 2011, submittal, supplemented on March 28, 2011, and June 29, 2012, Wisconsin certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (H), and (J) through (M) for the 2006 24-hour PM_{2.5} NAAQS. We are not finalizing action on (D)(i)(I), the

visibility protection requirements of (D)(i)(II), and the state board requirements of (E)(ii). We will address these requirements in a separate action. We are disapproving narrow portions of Wisconsin's infrastructure SIP submission addressing the relevant prevention of significant deterioration requirements of the 2008 NSR Rule (identifying PM_{2.5} precursors and the regulation of PM_{2.5} and PM₁₀ condensables in permits) with respect to section 110(a)(2)(C), (D)(i)(II), and (J).

[FR Doc. 2012-26289 Filed 10-26-12; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2008-0929; FRL-9746-2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Philadelphia-Wilmington-Atlantic City Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the attainment demonstration portion of the attainment plan submitted by the State of Maryland as a State Implementation Plan (SIP) revision. The Maryland SIP revision demonstrates attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the Philadelphia-Wilmington-Atlantic City,

PA-NJ-MD-DE moderate nonattainment area (Philadelphia Area) by the applicable attainment date of June 2011. EPA is approving the SIP revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on November 28, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2008-0929. 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: Rose Quinto, (215) 814-2182, or by email at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 23, 2012 (77 FR 50966), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of the attainment demonstration portion of Maryland's attainment plan for the 1997 8-hour ozone NAAQS for the Philadelphia Area. The formal SIP revision (#07-05) was submitted by Maryland on June 4, 2007.

II. Summary of SIP Revision

The SIP revision consists of the attainment demonstration portion of the attainment plan submitted by Maryland as a SIP revision on June 4, 2007 to demonstrate attainment of the 1997 8-hour ozone NAAQS for the Philadelphia Area by the applicable attainment date of June 2011. EPA previously approved other portions of the Maryland attainment plan submitted on June 4, 2007. *See* 75 FR 33172 (June 11, 2010). EPA has determined that the weight of evidence analysis that Maryland used to support the attainment demonstration provides sufficient evidence that the Philadelphia Area would attain the 1997 8-hour ozone NAAQS by the applicable attainment date of June 2011. Specific requirements of the attainment demonstration and the rationale for EPA's proposed action to approve the attainment demonstration are explained in the NPR and in the technical support document (TSD) for the NPR and will not be restated here. No public comments were received on the NPR.

Separately, EPA conducted a process to find adequate the motor vehicle emission budgets (MVEBs) for Cecil County which are associated with the Maryland attainment demonstration for the Philadelphia Area. A notice was posted on EPA's Web site for a 30-day public comment period on the adequacy determination for the 2009 MVEBs associated with the attainment demonstration for Cecil County. No comments were received during the public comment period. Therefore, EPA finds adequate the MVEBs for transportation conformity purposes for Cecil County, Maryland.

III. Final Action

EPA is approving the attainment demonstration portion of the attainment plan for the 1997 8-hour ozone NAAQS which was submitted by Maryland on June 4, 2007. EPA has determined that Maryland's SIP revision demonstrates attainment of the 1997 8-hour ozone NAAQS for the Philadelphia Area by the applicable attainment date. EPA has determined that the SIP revision meets the applicable requirements of the CAA.

EPA is also approving and finding adequate the 2009 MVEBs associated with the attainment demonstration for Cecil County, Maryland.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 28, 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 Maryland attainment demonstration for the 1997 8-hour ozone NAAQS for the Philadelphia Area may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR part 52

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

Dated: October 11, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding the entry for the Attainment Demonstration for the

1997 8-Hour Ozone National Ambient Air Quality Standard and its Associated Motor Vehicle Emissions Budgets at the end of the table to read as follows:

§ 52.1070 Identification of plan.
* * * * *
(e) * * *

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard and its Associated Motor Vehicle Emissions Budgets.	Maryland-Philadelphia-Wilmington-Atlantic City Moderate Nonattainment Area.	06/04/07	10/29/12 [Insert page number where the document begins].	

■ 3. In § 52.1076, paragraph (z) is added to read as follows:

§ 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.
* * * * *

(z) EPA approves the attainment demonstration portion of the attainment plan for the 1997 8-hour ozone NAAQS for the Philadelphia Area submitted as a revision to the State Implementation Plan by the Secretary of the Maryland

Department of the Environment on June 4, 2007. EPA also approves the 2009 motor vehicle emissions budgets associated with the attainment demonstration for Cecil County, Maryland.

TRANSPORTATION CONFORMITY BUDGETS FOR THE MARYLAND PORTION OF THE PHILADELPHIA AREA

Type of control strategy SIP	Year	VOC (TPD)	NO _x (TPD)
Attainment Demonstration	2009	7.3	2.2

[FR Doc. 2012–26394 Filed 10–26–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2012–0444; FRL–9746–3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Fredericksburg 8-Hour Ozone Maintenance Area Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the Commonwealth of Virginia’s State Implementation Plan (SIP) revision submitted by the Virginia Department of Environmental Quality (VADEQ) on September 26, 2011. The SIP revision updates the 2009 and 2015 motor vehicle emission budgets (MVEBs) in the Fredericksburg 8-Hour Ozone Maintenance Area (Fredericksburg Area) by replacing the previously approved MVEBs with budgets developed using EPA’s Motor Vehicle Emissions Simulator emissions model (MOVES2010a). The revised MVEBs

continue to demonstrate maintenance of the 1997 8-hour national ambient air quality standard (NAAQS) for ozone. This action is being taken under the Clean Air Act (CAA).

DATES:

Effective Date: This final rule is effective on November 28, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2012–0444. 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 Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

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

SUPPLEMENTARY INFORMATION:

I. Background

On August 6, 2012 (77 FR 46672), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of the Virginia SIP revision that updates the 2009 and 2015 MVEBs in the Fredericksburg Area by replacing the previously approved MVEBs with budgets developed using MOVES2010a. By EPA’s finalizing the proposed approval, the newly submitted MOVES2010a MVEBs will replace the existing, MOBILE6.2-based budgets in Virginia’s SIP and must then be used in future transportation conformity analyses for the Fredericksburg Area according to the transportation conformity rule. See 40 CFR 93.118. The previously approved budgets will no longer be applicable for transportation conformity purposes. Additionally, with the approval of the MOVES2010a-based MVEBs, the regional transportation conformity grace period for not using MOVES2010a for the pollutants included in these budgets will end for the Fredericksburg Area on the effective date of this final approval. See 75 FR 9411, 9414 (March 2, 2010) for

background on MOVES2010a and Section II.C for details. EPA received no comments on the NPR to approve Virginia's SIP revision.

II. Summary of SIP Revision

On September 26, 2011, the Commonwealth of Virginia through VADEQ submitted a SIP revision with MVEBs based on MOVES2010a for the years 2009 and 2015 to help ensure that the Fredericksburg Area can demonstrate transportation conformity using MOVES2010a MVEBs once the grace period expires as discussed in more detail in the NPR.

States that revise their existing SIPs to include MVEBs based on MOVES2010a must show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions contained in the budgets. EPA has determined that the Fredericksburg Area maintenance plan continues to serve its intended purpose with the MOVES2010a-based MVEBs and that the budgets meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4).

III. Final Action

EPA is approving the MOVES2010a-based MVEBs submitted by Virginia for use in determining transportation conformity in the Fredericksburg Area because the submitted budgets will continue to keep emissions below the attainment level and maintain air quality and continue to demonstrate maintenance of the 1997 8-hour ozone NAAQS. On the effective date of this rulemaking, the submitted MOVES2010a-based MVEBs will replace the existing, MOBILE6.2-based budgets in the Fredericksburg 8-Hour Ozone Maintenance Plan and will be used in future transportation conformity analyses for the Fredericksburg Area. The previously approved MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes. The following table compares the nitrogen oxide (NO_x) MVEBs developed using MOBILE6.2 to the inventories developed using MOVES2010a.

FREDERICKSBURG MAINTENANCE AREA
MOBILE SOURCE EMISSIONS COM-
PARISON TONS NO_x PER DAY

Year	MOBILE6.2 MVEB*	MOVES2010a
2004	19.742	24.064
2009	13.062	17.615
2015	7.576	9.933

* Includes conformity buffers.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1-1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1-1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts* * *." The opinion concludes that "[r]egarding § 10.1-1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1-1199, provides that "[t]o the extent consistent with requirements

imposed by Federal law," any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity."

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude Virginia from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 28, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of

such rule or action. This action approving Virginia’s 2009 and 2015 MVEBs in the Fredericksburg 8-Hour Area using MOVES2010a may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 11, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

- 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart VV—Virginia

- 2. In § 52.2420, the table in paragraph (e) is amended by revising the entry for the 8-Hour Ozone Maintenance Plan for the Fredericksburg VA Area. The amendments read as follows:

§ 52.2420 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
*	*	*	*	*
8-Hour Ozone Maintenance Plan for the Fredericksburg VA Area.	Spotsylvania and Stafford Counties; City of Fredericksburg.	9/26/11	10/29/12 [<i>Insert page number where the document begins.</i>]	Revised 2009 and 2015 motor vehicle emission budgets for NO _x .
*	*	*	*	*

- 3. Section 52.2424 is amended by adding paragraph (c) to read as follows:

§ 52.2424 Motor vehicle emissions budgets.

* * * * *

(c) EPA approves the following revised 2009 and 2015 motor vehicle emissions budgets (MVEBs) for the Fredericksburg 8-Hour Ozone Maintenance Area submitted by the

Virginia Department of Environmental Quality (VADEQ) on September 26, 2011:

Applicable geographic area	Year	Tons per day (TPD) NO _x
Fredericksburg Area (Spotsylvania and Stafford Counties and City of Fredericksburg)	2009	17.615
Fredericksburg Area (Spotsylvania and Stafford Counties and City of Fredericksburg)	2015	9.933

[FR Doc. 2012-26403 Filed 10-26-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52****[EPA-R03-OAR-2012-0608; FRL-9745-7]****Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Amendments to West Virginia's Ambient Air Quality Standards****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the West Virginia State Implementation Plan (SIP). The revision pertains to amendments of West Virginia's Legislative Rule, 45 CSR 8- Ambient Air Quality Standards. The amendments change the effective date of the incorporation by reference of the National Ambient Air Quality Standards (NAAQS) for sulfur oxides, nitrogen dioxide, lead, particulate matter and carbon monoxide as well as their monitoring reference and equivalent methods. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on December 28, 2012 without further notice, unless EPA receives adverse written comment by November 28, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2012-0608 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: mastro.donna@epa.gov*.

C. *Mail: EPA-R03-OAR-2012-0608*, Donna Mastro, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2012-0608. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy 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 West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

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 June 6, 2012, the West Virginia Department of Environmental Protection (WVDEP) submitted a formal revision to its SIP pertaining to amendments of Legislative Rule, 45 CSR 8—Ambient Air Quality Standards. The SIP revision consists of a change in the effective date of the incorporation by reference of the NAAQS and their monitoring reference and equivalent methods. EPA had approved a previous revision of Legislative Rule 45 CSR 8 on September 12, 2012 (77 FR 56125).

II. Summary of SIP Revision

This SIP revision is part of an annual submission by WVDEP to update their incorporation by reference of the National Primary and Secondary Ambient Air Quality Standards which are found at 40 CFR Part 50. The SIP revision also updates the incorporation by reference of the Ambient Air Monitoring Reference and Equivalent Methods which are found at 40 CFR Part 53. The amendments to the legislative rule include changes to section 45-8-1 (General) in which the filing and effective dates are changed to reflect the update of the legislative rule. They also include changes to section 45-8-3 (Adoption of Standards) in which the effective dates for the incorporation by reference of the National Primary and Secondary Ambient Air Quality Standards and the Ambient Air Monitoring Reference and Equivalent Methods are also changed to reflect the update of the legislative rule. The filing and effective dates of the legislative rule were updated and changed to May 1, 2012 and June 1, 2012 respectively. The effective date of the incorporation by reference of 40 CFR Part 50 and 40 CFR Part 53 changed from June 16, 2011 to June 1, 2012.

III. Final Action

EPA is approving the amendments to Legislative Rule, 45 CSR 8—Ambient Air Quality Standards, into the West Virginia SIP. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on December 28, 2012 without further notice unless EPA receives adverse comment by November 28, 2012. If EPA receives adverse comment, EPA will

publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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 28, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This action pertaining to the amendments of Legislative Rule 45 CSR 8 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: October 10, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart XX—West Virginia

- 2. In § 52.2520, the table in paragraph (c) is amended by revising the entries for 45-8-1 through 45-8-4 to read as follows:

§ 52.2520 Identification of plan.

*	*	*	*	*
(c)	*	*	*	*

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.2565
* * * * *				
[45 CSR] Series 8 Ambient Air Quality Standards				
45–8–1	General	6/1/12	10/29/12	Filing and effective dates are re- vised.
			[Insert page number where the document begins].	
45–8–2	Definitions	6/1/12.	10/29/12.	
			[Insert page number where the document begins].	
45–8–3	Adoption of Standards	6/1/12	10/29/12	Effective date is revised.
			[Insert page number where the document begins].	
45–8–4	Inconsistency Between Rules	6/1/12	10/29/12.	
			[Insert page number where the document begins].	
* * * * *				

[FR Doc. 2012–26390 Filed 10–26–12; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412, 413, 424, and 476

[CMS–1588–CN3]

RIN 0938–AR12

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals’ Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific Providers and for Ambulatory Surgical Centers; Corrections

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in the final rule that appeared in the August 31, 2012 **Federal Register** entitled “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Fiscal Year 2013 Rates; Hospitals’ Resident Caps for Graduate Medical Education Payment Purposes; Quality Reporting Requirements for Specific

Providers and for Ambulatory Surgical Centers.”

DATES: *Effective Date:* October 26, 2012.

FOR FURTHER INFORMATION CONTACT: Tzvi Hefter, (410) 786–4487.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2012–19079 of August 31, 2012 (77 FR 53258) (hereinafter referred to as the FY 2013 IPPS/LTCH PPS final rule), there were technical and typographical errors that are identified and corrected in the Correction of Errors section of this correcting document. We note that in the October 3, 2012 **Federal Register** (77 FR 60315), we corrected a number of the errors in the FY 2013 IPPS/LTCH PPS final rule including an error in the table regarding the final performance standards for the FY 2015 Hospital Value-Based Purchasing (HVBP) program. (For more detailed information, see sections II.A. and IV.A.11. of the October 3, 2012 correcting document).

II. Summary of Errors

A. Errors in the Preamble

On pages 53601 and 53602, we have determined that there were also errors in the achievement thresholds and benchmark values presented in the Clinical Process of Care measures section of the final performance standards for the FY 2015 HVBP Program table. The omission of the label for the HF–1 measure resulted in the performance standards for all subsequent measures being shifted up one line each. The table now reflects the corrections for all finalized Clinical Process of Care measures.

B. Errors in the Addendum

On page 53695, we made typographical errors in the charge inflation factor for the FY 2013 IPPS outlier threshold.

III. Waiver of Proposed Rulemaking and Delay of Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

In our view, this correcting document does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This correcting document corrects technical and typographical errors in the preamble and addendum, but does not make substantive changes to the policies or payment methodologies that

were adopted in the final rule. As a result, this correcting document is intended to ensure that the preamble and addendum, accurately reflects the policies adopted in that final rule.

In addition, even if this were a rule to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the

final rule or delaying the effective date would be contrary to the public interest. Furthermore, such procedures would be unnecessary, as we are not altering the policies that were already subject to comment and finalized in our final rule. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Doc. 2012–19079 of August 31, 2012 (77 FR 53258), make the following corrections:

A. Corrections of Errors in the Preamble

1. On pages 53601 and 53602, the table entitled “FINAL PERFORMANCE STANDARDS FOR THE FY 2015 HOSPITAL VBP PROGRAM CLINICAL PROCESS OF CARE, OUTCOME, AND EFFICIENCY DOMAINS,” the entries for the clinical process of care measures are corrected as follows:

CLINICAL PROCESS OF CARE MEASURES

Measure ID	Description	Achievement threshold	Benchmark
AMI–7a	Fibrinolytic Therapy Received Within 30 Minutes of Hospital Arrival	0.80000	1.00000
AMI–8a	Primary PCI Received Within 90 Minutes of Hospital Arrival	0.95349	1.00000
HF–1	Discharge Instructions	0.94118	1.00000
PN–3b	Blood Cultures Performed in the Emergency Department Prior to Initial Antibiotic Received in Hospital.	0.97783	1.00000
PN–6	Initial Antibiotic Selection for CAP in Immunocompetent Patient	0.95918	1.00000
SCIP–Card–2	Surgery Patients on Beta-Blocker Therapy Prior to Arrival Who Received a Beta-Blocker During the Perioperative Period.	0.97175	1.00000
SCIP–Inf–1	Prophylactic Antibiotic Received Within One Hour Prior to Surgical Incision	0.98639	1.00000
SCIP–Inf–2	Prophylactic Antibiotic Selection for Surgical Patients	0.98637	1.00000
SCIP–Inf–3	Prophylactic Antibiotics Discontinued Within 24 Hours After Surgery End Time	0.97494	1.00000
SCIP–Inf–4	Cardiac Surgery Patients With Controlled 6AM Postoperative Serum Glucose	0.95798	0.99767
SCIP–Inf–9	Urinary Catheter Removed on Postoperative Day 1 or Postoperative Day 2	0.94891	0.99991
SCIP–VTE–2	Surgery Patients Who Received Appropriate Venous Thromboembolism Prophylaxes Within 24 Hours Prior to Surgery to 24 Hours After Surgery.	0.97403	0.99998

B. Correct of Errors in the Addendum

1. On page 53695, third column, first paragraph, line 2, the figures “8.94 percent (1.0866203)” are corrected to read “8.66 percent (1.0866203)”.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 18, 2012.

Oliver Potts,

Deputy Executive, Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2012–26505 Filed 10–26–12; 8:45 am]

BILLING CODE 4120–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1812

RIN 2700–AD64

Commercial Acquisition; Anchor Tenancy

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA has adopted as final, with minor changes, a proposed rule amending the NASA FAR Supplement (NFS) to include authority, under limited conditions, to issue Anchor Tenancy contracts. Anchor Tenancy means “an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable.”

DATES: *Effective Date:* November 28, 2012.

FOR FURTHER INFORMATION CONTACT: Leigh Pomponio, NASA, Office of Procurement, Contract Management Division (Suite 5G84); (202) 358–0592; email: *leigh.pomponio@nasa.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

NASA published a proposed rule in the **Federal Register** at 76 FR 30301 on May 25, 2011. NASA’s Federal Acquisition Regulation Supplement (NFS) currently contains an inaccurate prohibition on anchor tenancy contracts. The prohibition is included in the NFS based on The Space Act, as amended by NASA’s FY 1992 Appropriations Act (42 U.S.C. 2459d).

The NFS states no appropriated funds may be used to enter into contracts, grants, or other agreements for more than 1 year if the primary effect is to provide a guaranteed customer base for or establish an anchor tenancy in new commercial space hardware or services unless an appropriations Act specifies the new commercial space hardware or services to be developed/used or the contract, grant, or agreement is specified in an appropriations Act. However, subsequent to the prohibition, as part of NASA’s FY 1993 Authorization Act, 15 U.S.C. 5806 was added to the Commercial Space Competitiveness Act (CSCA). The latter statute includes limited authority for NASA to enter into multi-year anchor tenancy contracts for the purchase of a good or service if the Agency receives an appropriation that (1) authorizes a multi-year anchor tenancy contract and (2) specifies the commercial space product or service to be developed or used. Furthermore, the NASA Administrator would be required to make a determination that addresses the following six criteria:

- (1) The good or service meets the mission requirements of NASA;
- (2) The commercially procured good or service is cost effective;

(3) The good or service is procured through a competitive process;

(4) Existing or potential customers for the good or service other than the United States Government have been specified identified;

(5) The long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(6) Private capital is at risk in the venture.

The purpose of this final rule is to reconcile the NFS with the statutory authority for Anchor Tenancy contracts.

The due date for public comments in response to the proposed rule was July 25, 2011. NASA received general comments in support of the rule from one respondent. The respondent expressed support for NASA's rule, and noted that it reflects efforts aimed at achieving goals set forth in the Administration's 2010 National Space Policy to support growth in the commercial space sector.

During the comment period, NASA recognized a need to clarify the rule. Consequently, minor changes have been made to the proposed rule in this final rule, as follows: The discussion of statutory authority has been consolidated and simplified; it is now discussed only in paragraph (a). The final rule identifies what is meant by an anchor tenancy whereas anchor tenancy was previously described in the background of the **Federal Register** Notice for the proposed rule.

B. Executive Orders 12866 and 13563

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, NASA determined that this rule is not excessively burdensome to the public, and is consistent with the administrative nature of rule. This is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. because it does not impose any new requirements on small entities. The rule clarifies NASA's authority to enter into Anchor Tenancy contracts, under limited conditions.

D. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) is not applicable because the NFS changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 1812

Government procurement.

William P. McNally,

Assistant Administrator for Procurement.

Accordingly, 48 CFR part 1812 is amended as follows:

PART 1812—ACQUISITION OF COMMERCIAL ITEMS

■ 1. The authority citation for 48 CFR part 1812 continues to read as follows:

Authority: 42 U.S.C. 2455(a), 2473(c)(1).

■ 2. Section 1812.7000 is revised to read as follows.

1812.7000 Anchor tenancy contracts.

(a) Subject to receiving an appropriation that:

(1) Authorizes a multi-year anchor tenancy contract; and

(2) Specifies the commercial space product or service to be developed or used, NASA may enter into a multi-year anchor tenancy contract only if Administrator determines—

(i) The good or service meets the mission requirements of the National Aeronautics and Space Administration;

(ii) The commercially procured good or service is cost effective;

(iii) The good or service is procured through a competitive process;

(iv) Existing or potential customers for the good or service other than the United States Government have been specifically identified;

(v) The long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(vi) Private capital is at risk in the venture.

(b) Contracts entered into under such authority may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(1) Contracts that provide for this payment of termination liability shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(2) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

(c) *Limitations.* (1) Contracts entered into under such authority shall not exceed 10 years in duration.

(2) Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) In any such contract, the Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contractor's actual or anticipated failure to perform its contractual obligations.

(d) The term "anchor tenancy" means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable.

[FR Doc. 2012-26546 Filed 10-26-12; 8:45 am]

BILLING CODE 7510-01-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 390

[Docket No. FMCSA-2012-0156]

RIN 2126-AB53

Gross Combination Weight Rating (GCWR); Definition

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Withdrawal of direct final rule.

SUMMARY: FMCSA withdraws its August 27, 2012, direct final rule (DFR) amending the definition of "gross combination weight rating" (GCWR) in 49 CFR parts 383 and 390. The DFR would have taken effect on October 26, 2012. However, the Agency received several adverse comments in response to the DFR and will, therefore develop a notice of proposed rulemaking to request public comments on proposed changes to the GCWR definition.

DATES: The direct final rule published August 27, 2012 (77 FR 51706) is withdrawn effective October 26, 2012.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, Office of Enforcement and Program Delivery, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001, by telephone at (202) 366-1812 or via email at Thomas.Kelly@dot.gov. Office hours are from 9 a.m. to 5 p.m. ET, Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Viewing Comments and Documents

To view comments, go to <http://www.regulations.gov>, FMCSA-2012-0156. If you do not have access to the internet, you may also view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

B. Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

II. Background

On August 27, 2012, FMCSA published a DFR to amend the definition of "gross combination weight rating" (GCWR) in 49 CFR parts 383 and 390. The DFR provided that the rule would be effective October 26, 2012, if no adverse comments were received by September 26, 2012. In view of three adverse comments submitted to the docket, FMCSA withdraws the DFR through this notice.

Commenter John F. Nowak stated that the definition of GCWR should not be amended until the National Highway Traffic Safety Administration (NHTSA) changes its regulations to require manufacturers to include a vehicle's GCWR in addition to its gross vehicle weight rating (GVWR) on the certification label. He argued that it was difficult at this time for drivers, motor carriers, and law enforcement officers to obtain GCWR information quickly. Mr.

Nowak claimed that currently only the second half of the existing definition of GCWR is readily available for use by carrier and enforcement personnel. This commenter went on to say that because FMCSA must be aware of the difficulty in obtaining the manufacturer's GCWR for any particular vehicle, the second sentence of the existing definition must be retained.

Currently, the definitions in 49 CFR 383.5 and 390.5 both define *Gross combination weight rating (GCWR)* as the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR¹ of the power unit and the total weight of the towed unit and any load thereon.

Mr. Nowak agrees with FMCSA that the definition of GCWR should ultimately be changed to reflect NHTSA's definition of that term. Prior to this change, however, he suggests that the FMCSA place the responsibility for obtaining GCWR information on law enforcement officers and refrain from taking adverse action against drivers or carriers for failure to have this information.

Commenter Bryce Baker indicates that manufacturers do not list the GCWR on the vehicle. Even if such a value is available from the manufacturer, he states, the time needed to obtain the information would make enforcement fruitless. Although commenter David S. McQueen also opposes the change included in the DFR, his position seems to be based on a misunderstanding of the GCWR definition used by the National Highway Traffic Safety Administration.

FMCSA Response: The comments submitted by these three individuals qualify as adverse. Therefore, under 49 CFR 389.39(d), FMCSA withdraws the direct final rule of August 27, 2012 (77 FR 51706).

Issued on: October 22, 2012.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2012-26550 Filed 10-26-12; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907301205-0289-02]

RIN 0648-XC290

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the Atlantic Herring Management Area 1A Sub-Annual Catch Limit

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS adjusts the 2012 fishing year sub-annual catch limit for Atlantic Herring Management Area 1A due to an under-harvest in the New Brunswick weir fishery. This action complies with the 2010-2012 specifications and management measures for the Atlantic Herring Fishery Management Plan.

DATES: Effective November 1, 2012, through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Lindsey Feldman, Fishery Management Specialist, 978-675-2179, Fax 978-281-9135.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch (ABC), annual catch limit (ACL), optimum yield (OY), domestic harvest and processing, U.S. at-sea processing, border transfer and sub-ACLs for each management area. The 2012 Domestic Annual Harvest was set as 91,200 metric tons (mt); the sub-ACL allocated to Area 1A for the 2012 fishing year (FY) was 26,546 mt and no herring catch was set aside for research in the 2010-2012 specifications (75 FR 48874, August 12, 2010). Due to an over-harvest in Area 1A in 2010, the FY 2012 sub-ACL in Area 1A was revised to 24,668 mt on February 24, 2012 (77 FR 10978, February 24, 2012). An additional 295 mt of the Area 1A sub-ACL is set aside for fixed gear fisheries west of Cutler, ME, until November 1, 2012, reducing the Area 1A sub-ACL to 24,373 mt. Due to the variability of Canadian catch in the New Brunswick weir fishery, a 3,000 mt portion of the 9,000 mt buffer between ABC and OY (the buffer to account for Canadian catch) is allocated

¹GVWR stands for gross vehicle weight rating.

to Area 1A, provided New Brunswick weir landings are lower than the amount specified in the buffer.

The NMFS Regional Administrator is required to monitor the fishery landings in the New Brunswick weir fishery each year. If the New Brunswick weir fishery landings through October 15 are less than 9,000 mt, then 3,000 mt of the weir fishery allocation is required to be added to the Area 1A sub-ACL in November of the same year. When such a determination is made, NMFS is required to publish a notification in the **Federal Register** to adjust the Area 1A sub-ACL for the remainder of the FY.

The Regional Administrator has determined, based on the best available information, that the New Brunswick weir fishery landings for FY 2012 through October 15, 2012, were 409 mt. Therefore, effective November 1, 2012, 3,000 mt will be allocated to the Area 1A sub-ACL, increasing the FY 2012 Area 1A sub-ACL from 24,373 mt to 27,373 mt. Because any increase to a sub-ACL also increases the stock-wide ACL, this allocation increases the 2012 stock-wide ACL from 91,200 mt to 94,200 mt. Additionally, the allocation of 3,000 mt to Area 1A will be taken into consideration when NMFS projects

that catch will reach 95 percent of the Area 1A sub-ACL.

Classification

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

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it is impracticable and contrary to the public interest. This action increases the sub-ACL for Area 1A by 3,000 mt (from 24,373 mt to 27,373 mt) through December 31, 2012. The regulations at § 648.201(f) require such action to help mitigate some of the negative economic effects associated with the reduction in the Area 1A sub-ACL in the 2010–2012 specifications process (40 percent less than in 2009). The herring fishery extends from January 1 to December 31. Data indicate the New Brunswick weir fishery landed 409 mt through October 15, 2012. There is a limited amount of time between October 15 (when the New Brunswick weir fishery slows for the year) and the end of the U.S. herring fishing year on December 31. If implementation of this Area 1A sub-

ACL increase is delayed to solicit prior public comment, the increase may not be effective prior to the end of the 2012 fishing year and the 3,000 mt allocation would not be available for harvest. Additionally, the availability of herring in Area 1A is seasonal. As the end of the fishing year approaches, herring can disperse or move out of Area 1A, and/or the approach of winter weather can hinder fishery access to herring in Area 1A. The best available information indicates that current catch is close to 95 percent of the Area 1A sub-ACL. If implementation of this increase is delayed to solicit prior public comment, herring may no longer be available to the fishery for harvest in Area 1A, thereby undermining the intended economic benefits associated with this action. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

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

Dated: October 24, 2012.

James P. Burgess,

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

[FR Doc. 2012–26535 Filed 10–24–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 77, No. 209

Monday, October 29, 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.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

2 CFR Part 1880

RIN 2700-AD81

Extension of Suspension and Debarment Exclusions, Grants and Cooperative Agreements

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA proposes to extend coverage of nonprocurement suspension and debarment to all-tier procurement and non-procurement actions under all grants and cooperative agreements.

DATES: Interested parties should submit comments to NASA at the address below on or before December 28, 2012 to be considered in formulation of the final rule.

ADDRESSES: Interested parties may submit comments, identified by RIN number 2700-AD81 via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments may also be submitted to Leigh Pomponio via email at leigh.pomponio@nasa.gov.

FOR FURTHER INFORMATION CONTACT: Leigh Pomponio, NASA, Office of Procurement, (202) 358-0592 or email: leigh.pomponio@nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The revisions herein are part of NASA's retrospective plan under EO 13563 completed in August 2011. NASA's full plan can be accessed at: http://www.nasa.gov/pdf/581545main_Final%20Plan%20for%20Retrospective%20Analysis%20of%20Existing%20Regulations.pdf.

On August 31, 2005 (70 FR 51865) The Office of Management and Budget promulgated guidelines to Federal agencies on the governmentwide

debarment suspension system for nonprocurement programs. The OMB guidance to Federal Agencies was amended on November 15, 2006 (71 FRN 664320). These two notices resulted in the governmentwide regulation at 2 CFR 180. Specifically, at § 180.220(c), OMB offered Federal agencies flow down options for application of nonprocurement suspension and debarment regulations to procurement actions under covered transactions. OMB permitted Agencies to flow down requirements to just the first-tier or to all lower-tier participants.

On April 20, 2007, NASA promulgated a final rule (72 FR 19783) which established a new Part 1880 in Title 2 of the Code of Federal Regulations (CFR) on nonprocurement debarment and suspension. This rule implemented and supplemented the Office of Management and Budget's (OMB) guidance provided at 2 CFR Part 180. It included agency-specific regulations related to nonprocurement suspension and debarment. At the time of that action, NASA elected to limit the flow down of nonprocurement suspension and debarment applicability to only first-tier procurement contacts thereunder. However, NASA has reconsidered its position on flow down and is currently proposing to revise 2 CFR 1880.220 to apply to all participants at all tiers under procurement and non-procurement actions at any dollar amount. NASA will not permit any subawards to individuals or entities that are listed on the Excluded Parties List Service (EPLS).

B. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866.

This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

NASA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* It will require entities to check the Excluded Parties List System (EPLS) prior to making subawards under a grant or cooperative agreement; the EPLS is an easy-to-access and use on-line resource.

D. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) is not applicable because the NFS changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 2 CFR Part 1880

Government procurement.

William P. McNally,

Assistant Administrator for Procurement.

Accordingly, 2 CFR Part 1880 is amended as follows:

1. The authority citation for 2 CFR part 1880 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103-355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; 42 U.S.C. 2473(c)(1).

2. Section 1880.220 is revised to read as follows:

§ 1880.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

NASA extends coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement action, to all lower tier subcontracts, at all dollar values, consistent with OMB guidance at 2 CFR 180.220(c) and the figure in the appendix at 2 CFR part 180. NASA does not permit subcontracting to suspended or debarred entities at any tier, at any dollar amount.

[FR Doc. 2012-26543 Filed 10-26-12; 8:45 am]

BILLING CODE 7510-01-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2012-1110; Directorate Identifier 2012-NM-013-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 an existing airworthiness directive (AD) that applies to certain The Boeing Company Model 707 airplanes, and Model 720 and 720B series airplanes. The existing AD currently requires replacing wiring for the fuel boost pumps and override pumps with new wiring, installing Teflon sleeving on the wiring, and doing associated actions; and doing repetitive inspections to detect damage of the wiring or evidence of a fuel leak. Since we issued that AD, we have determined through service experience that the inspection interval was too long. This proposed AD would reduce the repetitive inspection interval. We are proposing this AD to detect and correct damaged wiring for the fuel boost pumps and override pumps, which could cause electrical arcing that could puncture the conduit containing the wire, and result in a fuel tank explosion or a fire adjacent to the fuel tank.

DATES: We must receive comments on this proposed AD by December 13, 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:

Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone 425-917-6509; fax 425-917-6590; email: Rebel.Nichols@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-2012-1110; Directorate Identifier 2012-NM-013-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 August 17, 2001, we issued AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001), for certain Model 707 airplanes, and Model 720 and 720B series airplanes. That AD requires replacing the wiring for the fuel boost pumps and override pumps with new wiring, installing Teflon sleeving on the wiring, and doing associated actions; and doing repetitive inspections

to detect damage of the wiring or evidence of a fuel leak. That AD resulted from a report that, while investigating a fuel leak around the bolts on the number 1 fuel boost pump, an operator found wire damage where the fuel boost pump wiring exited the boost pump and entered the boost pump access area. We issued that AD to detect and correct damaged wiring for the fuel boost pumps and override pumps, which could cause electrical arcing that could puncture the conduit containing the wire, and result in a fuel tank explosion or a fire adjacent to the fuel tank.

Actions Since Existing AD, Amendment 39-12411 (66 FR 44954, August 27, 2001) Was Issued

Since we issued AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001), we have determined through service experience that the inspection interval was too long.

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 retain all requirements of AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001). This proposed AD would reduce the repetitive inspection interval from 30,000 flight hours to 15,000 flight hours. This change has been coordinated with the manufacturer.

Change to Existing AD, Amendment 39-12411 (66 FR 44954, August 27, 2001)

This proposed AD would retain all the requirements of AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001). Since AD 2001-17-20 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001)	Corresponding requirement in this proposed AD
paragraph (a) Note 2 Note 3 paragraph (b)	paragraph (g) paragraph (g)(1) paragraph (g)(2) paragraph (h)

Costs of Compliance

We estimate that this proposed AD affects 5 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement [retained actions from AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001)].	38 work-hours × \$85 per hour = \$3,230.	\$9,943	\$13,173	\$65,865
Inspection [retained actions from AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001)].	3 work-hours × \$85 per hour = \$255 per inspection cycle..	\$0	\$255 per inspection cycle	\$1,275 per inspection cycle.

The new requirements of this proposed AD add no additional economic burden. The increase in replacement labor costs of 31 work hours in AD 2001–17–20, Amendment 39–12411 (66 FR 44954, August 27, 2001), to the 38 work hours specified in this proposed AD, is due to the opening and closing hours being included in the cost of this proposed AD. We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

We 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 directive (AD) 2001–17–20, Amendment 39–12411 (66 FR 44954, August 27, 2001), and adding the following new AD:

The Boeing Company: Docket No. FAA–2012–1110; Directorate Identifier 2012–NM–013–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by December 13, 2012.

(b) Affected ADs

This AD supersedes AD 2001–17–20, Amendment 39–12411 (66 FR 44954, August 27, 2001).

(c) Applicability

This AD applies to The Boeing Company Model 707–100 long body, –200, –100B long body, and –100B short body series airplanes; Model 707–300, –300B, –300C, and –400 series airplanes; and Model 720 and 720B series airplanes; certificated in any category; line numbers 1 through 941 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 24, Electrical Power.

(e) Unsafe Condition

This AD was prompted by a report that, while investigating a fuel leak around the bolts on the number 1 fuel boost pump on a Boeing Model 707 series airplane, an operator found wire damage where the fuel boost pump wiring exited the boost pump and entered the boost pump access area. Since we issued AD 2001–17–20, Amendment 39–12411 (66 FR 44954, August 27, 2001) to address the unsafe condition, we have determined through service experience that the inspection interval was too long. We are issuing this AD to detect and correct damaged wiring for the fuel boost pumps and override pumps, which could cause electrical arcing that could puncture the conduit containing the wire, and result in a fuel tank explosion or a fire adjacent to the fuel tank.

(f) Compliance

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

(g) Retained Replacement of Wiring, Installation of Sleeving, and Associated Actions

This paragraph restates the requirements of paragraph (a) of AD 2001–17–20, Amendment 39–12411 (66 FR 44954, August 27, 2001). Within 1 year or 4,000 flight hours after October 1, 2001 (the effective date of AD 2001–17–20), whichever occurs first: Replace the wiring for the fuel boost pumps and override pumps, install Teflon sleeving over

the wiring, and do all associated actions, per the Accomplishment Instructions of Boeing Service Bulletin A3500, Revision 1, dated April 26, 2001. The associated actions include performing a general visual inspection of the area around each fuel boost pump and override pump for evidence of a fuel leak; finding the source of any fuel leak and repairing the affected area; replacing the conduit, if required; and performing a detailed visual inspection of the wiring installed in the conduit for evidence of electrical arcing or a fuel leak, or exposed copper wire. If replacement of the conduit is deferred per the Accomplishment Instructions of Boeing Service Bulletin A3500, Revision 1, dated April 26, 2001, repeat the inspection for fuel leaks every 500 flight hours until the conduit is replaced, and replace the conduit within 6,000 flight hours or 18 months, whichever occurs first.

(1) For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(2) 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 intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(h) Retained Repetitive Inspections

This paragraph restates the requirements of paragraph (b) of AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001), with a new compliance time. After replacement of the wiring per paragraph (g) of this AD, repeat the detailed visual inspection of the wiring for the fuel boost pumps and override pumps for damage, such as evidence of electrical arcing or exposed copper wire, or evidence of a fuel leak. After the effective date of this AD, repeat the inspection one time at the earlier of the times specified in paragraphs (h)(1) and (h)(2) of this AD, per the Accomplishment Instructions of Boeing Service Bulletin A3500, Revision 1, dated April 26, 2001. If any electrical arcing or exposed copper wire or evidence of a fuel leak is detected during any inspection per this paragraph, before further flight, do the applicable corrective actions (including finding the source of any fuel leak and repairing the affected area, replacing the wiring, replacing the conduit, or installing new Teflon sleeving; as applicable) according to the Accomplishment Instructions of Boeing Service Bulletin A3500, Revision 1, dated April 26, 2001. Repeat the inspection thereafter at intervals not to exceed 15,000 flight hours.

(1) Within 30,000 flight hours after the most recent inspection.

(2) At the later of the compliance times specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) Within 15,000 flight hours after the most recent inspection.

(ii) Within 3 years after the effective date of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before October 1, 2001 (the effective date of AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001)), using Boeing Alert Service Bulletin A3500, dated July 27, 2000, which is not incorporated by reference in this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) AMOCs approved previously in accordance with AD 2001-17-20, Amendment 39-12411 (66 FR 44954, August 27, 2001), are approved as AMOCs for this AD, except for AMOCs that change the inspection frequency.

(k) Related Information

(1) For more information about this AD, contact Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; phone 425-917-6509; fax 425-917-6590; email: *Rebel.Nichols@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 October 22, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012-26480 Filed 10-26-12; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2012-1148; Directorate Identifier 2012-CE-039-AD]

RIN 2120-AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Diamond Aircraft Industries GmbH Models DA 42, DA 42 M-NG, and DA 42 NG airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as overextension of the main landing gear (MLG) shock absorber that could lead to the MLG jamming in the gear bay and result in damage to the aircraft or occupant injury. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 13, 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A-2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: office@diamond-air.at; Internet: <http://www.diamond-air.at>. You may review copies of the referenced service information at the FAA, Small Airplane

Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4144; fax: (816) 329-4090; email: mike.kiesov@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-2012-1148; Directorate Identifier 2012-CE-039-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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2012-0174, dated September 4, 2012 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

An incident was reported where a Diamond DA 42 experienced main landing gear (MLG) extension problems during approach, with the left hand (LH) MLG not down. An uneventful landing was made with minor damage to the aeroplane and no injuries to occupants.

Subsequent investigation results showed that the affected MLG leg shock absorber, P/N D60-3277-10-00, had overextended, resulting in the MLG being jammed in the gear bay. The overextension had been caused by a retaining nut in the MLG shock absorber which had loosened itself during operation.

This condition, if not corrected, could inhibit proper extension of the MLG, possibly resulting in damage to the aeroplane and injury to occupants.

Prompted by the reported event, Diamond Aircraft Industries (DAI) published Recommended Service Bulletin (RSB) 42-089/RSB 42NG-017 which includes Working Instruction (WI) WI-RSB-089/WI-RSB 42NG-017 (published as a single document) to recommend operators to modify the affected dampers to P/N D60-3277-10-00_01 standard, which incorporates installation of a new retaining nut and a new seal system for the MLG damper that is more durable and can withstand a greater temperature range.

Since that RSB was issued, further analysis has shown that the risk of a MLG failing to extend is greater than was initially determined. Consequently, DAI issued Mandatory Service Bulletin MSB 42-095/MSB 42NG-026 to alert aeroplane owners and operators accordingly. The new MSB contains the same instructions as the earlier RSB, but is no longer 'at owner's discretion'.

For the reasons described above, this AD requires modification of the affected MLG leg shock absorber, P/N D60-3277-10-00. This AD also prohibits installation of unmodified P/N D60-3277-10-00 MLG leg shock absorbers.

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

Relevant Service Information

Diamond Aircraft Industries GmbH has issued the following service information:

- Mandatory Service Bulletin MSB 42-095, MSB 42NG-026, dated November 11, 2011;
- Recommended Service Bulletin RSB 42-089/1, RSB 42NG-017/1, dated April 19, 2011;
- Page 202 through page 211 of CHAPTER 32 LANDING GEAR in Diamond Aircraft DA 42 Series AMM, Doc # 7.02.01, Rev. 2, dated June 30, 2008;
- Page 201 through page 213 in Temporary Revision AMM-TR-OÄM 42-195 of Diamond Aircraft DA 42 AMM, Doc # 7.02.01, dated July 14, 2010; and
- Page 203 through page 214 of CHAPTER 32 LANDING GEAR in Diamond Aircraft DA 42 NG AMM, Doc # 7.02.15, Rev. 1, dated October 15, 2009.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 175 products of U.S. registry. We also estimate that it would take about 2 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 \$115 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$49,875, or \$285 per product.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This

proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Diamond Aircraft Industries GmbH: Docket No. FAA-2012-1148; Directorate Identifier 2012-CE-039-AD.

(a) Comments Due Date

We must receive comments by December 13, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Models DA 42, DA 42 M-NG, and DA 42 NG airplanes, all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as

overextension of the main landing gear (MLG) shock absorber. We are issuing this AD to prevent the MLG jamming in the gear bay, which could result in damage to the aircraft or occupant injury.

(f) Actions and Compliance

Unless already done, do the following actions:

- (1) Within the next 200 hours time-in-service (TIS) after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs first, modify the left hand (LH) and right hand (RH) MLG leg shock absorbers part number (P/N) D60-3277-10-00 (no P/N change necessary) following Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42-095, MSB 42NG-026, dated November 11, 2011, or replace each MLG leg shock absorber P/N D60-3277-10-00 with a modified unit P/N D60-3277-10-00-01, following, as applicable: Diamond Aircraft Industries GmbH Recommended Service Bulletin RSB 42-089/1, RSB 42NG-017/1, dated April 19, 2011; page 202 through page 211 of CHAPTER 32 LANDING GEAR in Diamond Aircraft DA 42 Series AMM, Doc # 7.02.01, Rev. 2, dated June 30, 2008; page 201 through page 213 in Temporary Revision AMM-TR-OAM 42-195 of Diamond Aircraft DA 42 AMM, Doc # 7.02.01, dated July 14, 2010; and page 203 through page 214 of CHAPTER 32 LANDING GEAR in Diamond Aircraft DA 42 NG AMM, Doc # 7.02.15, Rev. 1, dated October 15, 2009.

(2) Modification of an airplane following Diamond Aircraft Industries GmbH Recommended Service Bulletin RSB 42-089/1, RSB 42NG-017/1, dated April 19, 2011, following working instruction WI-MSB 42-095, MSB 42NG-026, dated November 11, 2011, as referenced in Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42-095, MSB 42NG-026, dated November 11, 2011, is acceptable to comply with the requirement of paragraph (f)(1) of this AD.

(3) After the effective date of this AD, do not install an MLG leg shock absorber P/N D60-3277-10-00 on the airplane, unless the shock absorber has been modified following Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42-095, MSB 42NG-026, dated November 11, 2011, or following Diamond Aircraft Industries GmbH Recommended Service Bulletin RSB 42-089/1, RSB 42NG-017/1, dated April 19, 2011; and following working instruction WI-MSB 42-095, MSB 42NG-026, dated November 11, 2011, as referenced in Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42-095, MSB 42NG-026, dated November 11, 2011.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

- (1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106;

telephone: (816) 329-4144; fax: (816) 329-4090; email: mike.kiesov@faa.gov. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES-200.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2012-0174, dated September 4, 2012; Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42-095, MSB 42NG-026, dated November 11, 2011; Diamond Aircraft Industries GmbH Recommended Service Bulletin RSB 42-089/1, RSB 42NG-017/1, dated April 19, 2011; page 202 through page 211 of CHAPTER 32 LANDING GEAR in Diamond Aircraft DA 42 Series AMM, Doc # 7.02.01, Rev. 2, dated June 30, 2008; page 201 through page 213 in Temporary Revision AMM-TR-OAM 42-195 of Diamond Aircraft DA 42 AMM, Doc # 7.02.01, dated July 14, 2010; and page 203 through page 214 of CHAPTER 32 LANDING GEAR in Diamond Aircraft DA 42 NG AMM, Doc # 7.02.15, Rev. 1, dated October 15, 2009, for related information. For service information related to this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A-2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: office@diamond-air.at; Internet: <http://www.diamond-air.at>. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

Issued in Kansas City, Missouri, on October 22, 2012.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012-26499 Filed 10-26-12; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2012-1109; Directorate Identifier 2011-NM-172-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 an existing airworthiness directive (AD) that applies to certain The Boeing Company Model 757-200 and -200PF series airplanes. The existing AD currently requires modification of the nacelle strut and wing structure, and repair of any damage found during the modification. Since we issued that AD, a compliance time error involving the optional threshold formula was discovered, which could allow an airplane to exceed the acceptable compliance time for addressing the unsafe condition. This proposed AD would specify a maximum compliance time limit that overrides the optional threshold formula results. We are proposing this AD to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

DATES: We must receive comments on this proposed AD by December 13, 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; phone: 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, Seattle Aircraft Certification Office (ACO), FAA, 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-2012-1109; Directorate Identifier 2011-NM-172-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 August 29, 2003, we issued AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003), for

certain Model 757 series airplanes powered by Pratt & Whitney engines. That AD requires modification of the nacelle strut and wing structure, and repair of any damage found during the modification. That AD resulted from reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Subsequent analysis and service history, which included numerous reports of fatigue cracking on certain strut and wing structure, indicated that fatigue cracking can occur on the primary strut structure before an airplane reaches its design service objective. We issued that AD to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

Actions Since Existing AD (68 FR 53496, September 11, 2003) Was Issued

Since we issued AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003), an error in the optional threshold formula of the compliance time was discovered. If the optional threshold formula is used, it could result in an unacceptable compliance time for addressing the unsafe condition.

Relevant Service Information

AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003), refers to Boeing Service Bulletin 757-54-0034, dated May 14, 1998; or Revision 1, dated October 11, 2001; as the appropriate source of service information for modifying the nacelle strut and wing structure. Boeing has since revised this service bulletin. We reviewed Boeing Service Bulletin 757-54-0034, Revision 2, dated May 7, 2009. This service bulletin specifies a compliance time that limits the results from the optional threshold compliance time formula to within eight years from the issuance date of this service bulletin.

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 retain all requirements of AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003). This proposed AD would reduce certain compliance times. The optional threshold formula method is limited to within eight years after the effective date of the AD. This proposed

AD would also require accomplishing the actions specified in the service information described previously, except as discussed under “Differences Between the Proposed AD and the Service Information.”

Change to Existing AD (68 FR 53496, September 11, 2003)

This proposed AD would retain all requirements of AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003). Since AD 2003–18–05 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003)	Corresponding requirement in this proposed AD
paragraph (a)	paragraph (g)
paragraph (b)	paragraph (h)
paragraph (c)	paragraph (i)
paragraph (d)	paragraph (j)

Differences Between the Proposed AD and the Service Information

Boeing Service Bulletin 757–54–0034, Revision 2, dated May 7, 2009, specifies to contact the manufacturer for instructions on how to repair certain

conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 278 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
Modification [retained actions from AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003)].	800 work-hours × \$85 per hour = \$68,000	\$0	\$68,000	\$18,904,000

The new requirements of this proposed AD add no additional economic burden.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

We 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 directive (AD) 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003), and adding the following new AD:

The Boeing Company: Docket No. FAA–2012–1109; Directorate Identifier 2011–NM–172–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by December 13, 2012.

(b) Affected ADs

This AD supersedes AD 2003–18–05, Amendment 39–13296 (68 FR 53496, September 11, 2003).

(c) Applicability

This AD applies to The Boeing Company Model 757–200 and –200PF series airplanes, certificated in any category, line numbers 1 through 735 inclusive, powered by Pratt & Whitney engines.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

(e) Unsafe Condition

This AD was prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Subsequent analysis and service history, which includes numerous reports of fatigue cracking on certain strut and wing structure, indicated that fatigue cracking can occur on the primary strut

structure before an airplane reaches its design service objective. We are issuing this AD to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

(f) Compliance

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

(g) Retained Modification, With New Service Information and Reduced Compliance Time

This paragraph restates the requirements of paragraph (a) of AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003), with new service information and a reduced compliance time. Modify the nacelle strut and wing structure on both the left and right sides of the airplane, in accordance with Boeing Service Bulletin 757-54-0034, dated May 14, 1998; Boeing Service Bulletin 757-54-0034, Revision 1, dated October 11, 2001; or Boeing Service Bulletin 757-54-0034, Revision 2, dated May 7, 2009; at the later of the times specified in paragraph (g)(1) or (g)(2) of this AD. As of the effective date of this AD, only Boeing Service Bulletin 757-54-0034, Revision 2, dated May 7, 2009, may be used to accomplish the actions required by this paragraph.

(1) At the earlier of the times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) Prior to the accumulation of 37,500 total flight cycles.

(ii) At the later of the times specified in paragraphs (g)(1)(ii)(A) or (g)(1)(ii)(B) of this AD.

(A) Within 20 years since the date of manufacture.

(B) Within the compliance time calculated using the optional threshold formula described in Boeing Service Bulletin 757-54-0034, Revision 2, dated May 7, 2009, or within 8 years after the effective date of this AD, whichever occurs first.

(2) Within 3,000 flight cycles after November 13, 2000 (the effective date of AD 2000-20-09, Amendment 39-11920 (65 FR 59703, October 6, 2000)).

(h) Retained Concurrent Requirements, With New Service Information

This paragraph restates the requirements of paragraph (b) of AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003), with new service information. Except as provided by paragraph (j) of this AD: Prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (g) of this AD, accomplish the actions specified in Boeing Service Bulletin 757-54-0027, Revision 1, dated October 27, 1994; and Boeing Service Bulletin 757-54-0036, dated May 14, 1998, or Boeing Service Bulletin 757-54-0036, Revision 1, dated July 31, 2006; as applicable; in accordance with those service bulletins. As of the effective date of this AD, use only Boeing Service Bulletin 757-54-0036, Revision 1, dated July 31, 2006, to accomplish the requirements of this paragraph.

(i) Retained Repair, With New Service Information

This paragraph restates the requirements of paragraph (c) of AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003), with new service information. If any damage to airplane structure is found during the accomplishment of the modification required by paragraph (g) of this AD, and Boeing Service Bulletin 757-54-0034, dated May 14, 1998; Boeing Service Bulletin 757-54-0034, Revision 1, dated October 11, 2001; or Boeing Service Bulletin 757-54-0034, Revision 2, dated May 7, 2009; specifies to contact Boeing for appropriate action: Before further flight, repair the damage using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(j) Retained Modification, With New Service Information

This paragraph restates the requirements of paragraph (d) of AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003), with new service information. Modify the nacelle strut (including replacing the upper link with a new, improved part, and modifying the wire support bracket attached to the upper link), in accordance with Boeing Service Bulletin 757-54-0036, dated May 14, 1998; or Boeing Service Bulletin 757-54-0036, Revision 1, dated July 31, 2006; at the earlier of the times specified in paragraphs (j)(1) and (j)(2) of this AD. As of the effective date of this AD, use only Boeing Service Bulletin 757-54-0036, Revision 1, dated July 31, 2006, to accomplish the requirements of this paragraph.

(1) Prior to or concurrently with accomplishment of the modification of the nacelle strut and wing structure required by paragraph (g) of this AD.

(2) Prior to the accumulation of 27,000 total flight cycles (for Model 757-200 series airplanes) or 29,000 total flight cycles (for Model 757-200PF series airplanes), or within 2 years after October 16, 2003 (the effective date of AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003)), whichever is later.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the

Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 2003-18-05, Amendment 39-13296 (68 FR 53496, September 11, 2003), are approved as AMOCs for the corresponding provisions of this AD.

(l) Related Information

(1) For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM-120S, Seattle Aircraft Certification Office, FAA, 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; phone: 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 October 16, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012-26477 Filed 10-26-12; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM12-14-000]

Annual Charge Filing Procedures for Natural Gas Pipelines

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission or FERC) is proposing to amend its regulations to revise the filing requirements for natural gas pipelines that choose to recover Commission-assessed annual charges through an annual charge adjustment (ACA) clause. Currently, natural gas pipelines utilizing an ACA clause must make a tariff filing to reflect a revised ACA unit charge authorized by the Commission for that fiscal year. In order to reduce the

regulatory burden on these pipelines, the Commission proposes to eliminate this annual filing requirement. In its place, the Commission proposes to require natural gas pipelines utilizing an ACA clause to incorporate the Commission-authorized annual charge unit rate by reference to that rate, as published on the Commission's Web site located at <http://www.ferc.gov>.

DATES: Comments are due November 28, 2012.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- *Electronic Filing through:* <http://www.ferc.gov>. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Adam Bednarczyk (Technical Issues), 888 First Street NE., Washington, DC 20426, (202) 502-6444, Adam.Bednarczyk@ferc.gov; Michelle A. Davis (Legal Issues), 888 First Street NE., Washington, DC 20426, (202) 502-8687, Michelle.Davis2@ferc.gov.

[141 FERC ¶ 61,035]

(Issued October 18, 2012).

1. The Federal Energy Regulatory Commission (Commission or FERC) is proposing to amend its regulations at 18 CFR 154.402 to revise the filing requirements for natural gas pipelines that choose to recover Commission-assessed annual charges through an annual charge adjustment (ACA) clause. Currently, natural gas pipelines utilizing an ACA clause must make a tariff filing to reflect a revised ACA unit charge authorized by the Commission for that fiscal year. In order to reduce the regulatory burden on these pipelines, the Commission proposes to eliminate this annual filing requirement. In its place, the Commission proposes to require natural gas pipelines utilizing an ACA clause to incorporate the Commission-authorized annual charge unit rate by reference to that rate, as published on the Commission's Web site located at <http://www.ferc.gov>.

I. Background

2. The Commission is required to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the

Commission in that fiscal year."¹ To accomplish this, the Commission created the annual charges program, which is designed to recover the costs of administering the natural gas, oil, and electric programs by calculating the costs of each program, net of filing fees, and properly allocating them among the three programs.² This proceeding applies only to the recovery of annual charges assessed to entities in the natural gas program.

3. The provisions governing the assessment of annual charges are codified in Part 382 of the Commission's regulations.³ In brief, after the Commission calculates the costs of administering the natural gas regulatory program,⁴ it assesses those costs to natural gas pipeline companies (Pipelines).⁵ Each Pipeline is assessed a proportional share of the Commission's costs of administering the natural gas program. That proportional share is based on the following:

The proportion of the total gas subject to Commission regulation which was sold and transported by each company in the immediately preceding calendar year to the sum of the gas subject to the Commission regulation which was sold and transported in the immediately preceding calendar year by all natural gas pipeline companies being assessed annual charges.⁶

For example, if a Pipeline sold and transported 10 percent of the total gas

subject to the Commission's regulations, that Pipeline would be assessed 10 percent of the costs of the natural gas regulatory program in the form of an annual charge.

4. Pipelines are entitled to recover these annual charges from their customers, and they have two options for doing so. First, upon Commission approval, a Pipeline may adjust its rates annually to recover the annual charges through an ACA clause.⁷ Second, a Pipeline may seek to recover its annual charges through its general transportation rates.⁸ This proceeding proposes to modify only the first method, i.e., recovery of annual charges through an ACA clause, as it is widely used among Pipelines.

5. Order No. 472 recognized that although the Commission generally disfavors the use of tracking mechanisms, it is appropriate that Pipelines be permitted to pass through these annual charges directly to customers.⁹ Accordingly, the Commission provided Pipelines an option of passing along the annual charges to customers through a surcharge to their transportation rates reflected in the ACA clause.¹⁰ The Commission's requirements for Pipelines that choose to utilize an ACA clause are codified in section 154.402 of the Commission's regulations.¹¹

The ACA clause must be filed with the Commission and indicate the amount of annual charges to be flowed through per unit of energy sold or transported (ACA unit charge). The ACA unit charge will be specified by the Commission at the time the Commission calculates the annual charge bills. A company must reflect the ACA unit charge in each of its rate schedules applicable to sales or transportation deliveries. The company must apply the ACA unit charge to the usage component of rate schedules with two-part rates. A company may recover annual charges through an ACA unit charge only if its rates do not otherwise reflect the costs of annual charges assessed by the Commission under § 382.106(a) of this chapter. The applicable annual charge, required by § 382.103 of this chapter, must be paid before the company applies the ACA unit charge.¹²

6. Pipelines that seek to recover annual charges through an ACA clause must file a tariff record containing the following:

(1) A statement that the company is collecting an ACA per unit charge, as approved by the Commission, applicable to

⁷ *Id.* at 154.402.

⁸ Order No. 472, FERC Stats. & Regs. ¶ 30,746 at 30,629.

⁹ *Id.*

¹⁰ *Id.*

¹¹ 18 CFR 154.402 (2012).

¹² *Id.* at 154.402(a).

¹ See *Omnibus Budget Reconciliation Act*, Public Law 99-509, Title III, Subtitle E, § 3401, 1986 U.S. Code Cong. & Ad. News (100 Stat.) 1874, 1890-91 (codified at 42 U.S.C. 7178 (2012)).

² *Annual Charges Under the Omnibus Budget Reconciliation Act of 1986*, Order No. 472, FERC Stats. & Regs. ¶ 30,746, *clarified by*, Order No. 472-A, FERC Stats. & Regs. ¶ 30,750, *order on reh'g*, Order No. 472-B, FERC Stats. & Regs. ¶ 30,767 (1987), *order on reh'g*, Order No. 472-C, 42 FERC ¶ 61,013 (1988).

³ 18 CFR part 382 (2012).

⁴ *Id.* at 382.102(d) (defining the "natural gas regulatory program" as the Commission's regulation of the natural gas industry under the Natural Gas Act; Natural Gas Policy Act of 1978; Alaska Natural Gas Transportation Act; Public Utility Regulatory Policies Act; Department of Energy Organization Act; Outer Continental Shelf Lands Act; Energy Security Act; Regulatory Flexibility Act; Crude Oil Windfall Profit Tax Act; National Environmental Policy Act; National Historic Preservation Act).

⁵ For the purposes of this proceeding, we use the term natural gas pipeline company (Pipeline) as it is defined in 18 CFR 382.101(a) (2012): "Any person: (1) Engaged in natural gas sales for resale or natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act whose sales for resale and transportation exceed 200,000 Mcf at 14.73 psi (60 °F) in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges; and (2) Not engaged solely in "first sales" of natural gas as that term is defined in section 2(21) of the Natural Gas Policy Act of 1978; and (3) To whom the Commission has not issued a Natural Gas Act Section 7(f) declaration; and (4) Not holding a limited jurisdiction certificate."

⁶ 18 CFR 382.202 (2012).

all the pipeline's sales and transportation rate schedules, (2) The per unit charge of the ACA, (3) The proposed effective date of the tariff change (30 days after the filing of the tariff sheet or section, unless a shorter period is specifically requested in a waiver petition and approved), and (4) A statement that the pipeline will not recover any annual charges recorded in FERC Account 928 in a proceeding under subpart D of [part 154 of the Commission's regulations].¹³

Additionally, the Commission requires these Pipelines to file revised tariff records to reflect changes to the ACA unit charge authorized by the Commission each fiscal year.¹⁴

7. Each year the Commission sets the ACA unit charge for the natural gas program in July.¹⁵ Pipelines that wish to begin collecting the ACA unit charge on the first day of the fiscal year are required to file revised tariff records reflecting changes in the ACA unit charge by September 1 of each year, to be effective October 1 of that year.¹⁶ So long as the Pipeline has paid its annual charge to the Commission, the Commission will accept the tariff records, and they will go into effect on October 1. To the extent that the ACA unit charge remains the same from one year to the next, existing Pipelines that already reflect that ACA unit charge in their tariffs need not make a filing for that year. This annual process is designed to ensure that Pipelines collect charges for the entire fiscal year, as defined in Part 382 of the Commission's regulations.

8. In 2011, the Commission received 134 filings to reflect the annual change in the ACA unit charge. In years in which the ACA unit charge does not change, there are fewer filings. However, some Pipelines, such as those that have recently gone into service and have been billed an annual charge, are still permitted to submit a filing to the Commission in order to pass along the annual charge to their customers.

II. Discussion

9. In an effort to reduce the regulatory burden associated with annual tariff filings to reflect the current year's ACA unit charge, the Commission proposes

¹³ *Id.* at 154.402(b).

¹⁴ *Id.* at 154.402(c).

¹⁵ The Commission publishes this change via a notice entitled, "FY [Year] Gas Annual Charges Correction for Annual Charges Unit Charge," which is available on the Commission's Web site, located at <http://www.ferc.gov>.

¹⁶ *See id.* at 382.102(i) (defining "fiscal year" as the twelve-month period that begins on the first day of October and ends on the last day of September); *see also id.* at 154.402(b)(3) (requiring the proposed effective date of the tariff change revising the ACA unit charge to be 30 days after the date the change is filed, unless a shorter period is specifically requested in a waiver petition and approved).

to eliminate the annual filing requirement for Pipelines utilizing an ACA clause. In its place, the Commission proposes to require Pipelines utilizing an ACA clause to incorporate the Commission-authorized ACA unit rate by reference to that rate, as published on the Commission's Web site. Accordingly, Pipelines that wish to continue utilizing an ACA clause would be required to make a one-time tariff revision that incorporates the ACA unit charge published on the Commission's Web site into the Pipeline's tariff as the ACA unit charge for the relevant fiscal year.¹⁷

10. In proposing this change, the Commission is aware that in addition to the basic statutory requirement that all rates and charges be on file with the Commission,¹⁸ the filing requirements associated with the annual revisions to the ACA unit charge serve important practical functions. First, the annual tariff filing (and the Commission's acceptance of that filing) establishes an effective date upon which the Pipeline is entitled to begin collecting that fiscal year's ACA unit charge. Second, the annual filing provides the Commission with an opportunity to ensure that the Pipeline has actually paid the annual charge that it seeks to recover from customers.¹⁹

11. Because the annual filing requirement would be eliminated under the proposed reform and no longer serve these functions, the Commission's proposal is designed to replicate them. Accordingly, the Commission proposes to require Pipelines utilizing an ACA clause to incorporate by reference into their tariffs the ACA unit charge specified in the annual notice issued by the Commission entitled "FY [Year] Gas Annual Charges Correction for Annual Charges Unit Charge." This ACA unit charge shall be effective on the first day of October following issuance of this notice and shall extend to the last day of September the following year (i.e., the duration of the fiscal year). However, the ACA unit charge shall only be incorporated by reference into the Pipeline's tariff, and thereby assessed to shippers, if the Pipeline has paid its annual assessment, as reflected on a new notice, entitled "Payment Status of Pipeline Billings—FY [Year]," that the Commission will issue each year. This notice will identify the Pipelines that

¹⁷ *See id.* at 382.102(i) (defining "fiscal year" as the twelve-month period that begins on the first day of October and ends on the last day of September).

¹⁸ 15 U.S.C. 717c (2006).

¹⁹ Order No. 472, FERC Stats. & Regs. ¶ 30,746 at 30,629–30 (explaining that Pipelines may only collect those annual charges that they have already paid to the Commission).

have been assessed annual charges for a fiscal year and indicate whether they have paid their bills and are, therefore, authorized to recover the ACA unit charge from shippers. The Commission will issue the "Payment Status of Pipeline Billings—FY [Year]" notice on the last business day of the fiscal year, and provide updates as necessary. All of the documents can be found on the Annual Charges page of the Natural Gas section of the Commission's Web site, located at <http://www.ferc.gov>.

12. We emphasize that the only thing changed by this Proposed Rule is the filing requirement for those Pipelines that utilize an ACA clause. This Proposed Rule does not prevent Pipelines from continuing to recover annual charges assessed by the Commission through their transportation rates, as established in a general rate case. Nor does this Proposed Rule modify how the Commission calculates the costs of the natural gas regulatory program or how the ACA unit charge is calculated or assessed.

13. We are taking this action as part of our commitment to continually review our regulations and eliminate those requirements that impose an unnecessary burden on regulated entities. We find that our proposal to have Pipelines incorporate the ACA unit charge by reference to the notices published on the Commission's Web site will retain all of the transparency and consumer safeguards embodied in the Commission's existing regulations. However, it will eliminate approximately 145 filings each year, thereby reducing the regulatory burden on the Pipelines and the Commission.

III. Compliance

14. The Commission proposes that Pipelines be required to implement the proposed changes in time for the 2014 fiscal year. Accordingly, the Commission proposes to require Pipelines utilizing an ACA clause to make a one-time compliance filing revising their tariffs to incorporate by reference the ACA unit charge published on the Commission's Web site, as discussed above. In order to give Pipelines subject to these proposed modifications adequate time to implement these changes, this compliance filing will be due 30 days after the Final Rule is published in the **Federal Register**. Pipelines will be required to seek an effective date of October 1, 2013, for these compliance filings.

IV. Information Collection Statement

15. The following collections of information contained in this proposed rule are being submitted to the Office of Management and Budget (OMB) for review under section 507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility,

the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The following burden estimates reflect the time necessary for respondents to update their tariffs according to this proposed rule, as well as the avoided burden as respondents will no longer have to file

ACA charge tariff adjustments. The Commission estimates it will require eight hours per company to make the one time tariff changes proposed in this rule. In each year, including the first, the Commission estimates that filers will see a two hour per year reduction in burden from no longer filing ACA charge tariff adjustments. The following shows the burden hour impact of the proposed rule.

	Number of respondents (A)	Number of responses per respondent (B)	Total number of responses (A)*(B)=(C)	Average burden hours per response (D)	Estimated total annual burden (C)*(D)
Year 1 One-time tariff changes and burden reduction .....	.....	.....	.....	6	870
Year 2 burden reduction .....	.....	.....	.....	2	290
Year 3 burden reduction	145	1	145	2	290

The average annual burden associated with this rule over three years is 97 hours (870 hours – 290 hours – 290 hours = 290 hours; 290 hours/3 years = 96.67 hours/year). Accordingly, the Commission estimates that each respondent, on average, should experience a net reduction in burden (2 hours per year) starting with the fifth year and in each year thereafter.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average cost for all respondents to be the following:²⁰

- One-time total cost of \$51,330 (870 hours * \$59/hour)
- Avoided cost per year of \$17,110 (290 hours * \$59/hour)

Title: FERC–542, Gas Pipeline Rates: Rate Tracking.

Action: One-time filing and reduced future filings.

OMB Control Number: 1902–0070.

Respondents: Natural Gas Pipelines.

Frequency of Responses: One-time implementation and future reduction in number of responses. Responses are mandatory.

Necessity of Information: The proposals in this Proposed Rule would, if implemented, reduce the burden of interstate natural gas pipelines resulting from compliance with the Commission's regulations.

Internal Review: The Commission has reviewed the requirements pertaining to

proposed modification of the Commission's regulations and made a preliminary determination that the proposed revisions are necessary to reduce the burden imposed by the Commission on the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

16. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: DataClearance@ferc.gov, phone: (202) 502–8663, fax: (202) 273–0873].

17. Comments concerning the collection of information and the associated burden estimate, should be sent to the Commission in this docket and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, telephone: (202) 395–4638, fax: (202) 395–4718].

V. Environmental Analysis

18. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.²¹ The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human

environment.²² The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.²³ Therefore, an environmental assessment is unnecessary and has not been prepared as part of this NOPR.

VI. Regulatory Flexibility Act

19. The Regulatory Flexibility Act of 1980 (RFA)²⁴ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.²⁵ The SBA has established a size standard for pipelines transporting natural gas, stating that a firm is small if its annual receipts are less than \$25.5 million.²⁶

20. The regulations proposed here impose requirements only on interstate pipelines, the majority of which are not small businesses. Most companies regulated by the Commission do not fall within the RFA's definition of a small

²⁰ The cost figures are derived by multiplying the total hours to prepare a response (hours) by an hourly wage estimate of \$59 (a composite estimate that includes legal, technical and support staff wages and benefits obtained from the Bureau of Labor Statistic data at http://bls.gov/oes/current/naics3_221000.htm and <http://www.bls.gov/news.release/ecec.nr0.htm> rates).

²¹ *Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

²² 18 CFR 380.4.

²³ See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

²⁴ 5 U.S.C. 601–612.

²⁵ 13 CFR 121.101.

²⁶ 13 CFR 121.201, subsection 486.

entity. Approximately 145 entities would be potential respondents subject to data collection FERC-545 reporting requirements. Nearly all of these entities are large entities. For the year 2011 (the most recent year for which information is available), only 15 companies not affiliated with larger companies had annual revenues of less than \$25.5 million. Moreover, these requirements are designed to benefit all customers, including small businesses. The Commission estimates that the one-time cost per small entity is \$354.²⁷ In the future, small entities should see a cost savings related to avoiding an annual ACA charge adjustment filing. The Commission does not consider the estimated \$354 impact per entity to be significant. Accordingly, pursuant to § 605(b) of the RFA, the Commission certifies that this proposed rule should not have a significant economic impact on a substantial number of small entities.

VII. Comment Procedures

21. The Commission invites interested persons to submit written comments on the proposed regulation modifications promulgated in this NOPR, as well as any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 28, 2012. Comments must refer to Docket No. RM12-14-000, and must include the commenter's name, the organization they represent, if applicable, and their address. Comments may be filed either in electronic or paper format.

22. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

23. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

24. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters

on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

25. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

26. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

27. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

List of Subjects in 18 CFR Part 154

Natural gas, Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 154.402, Chapter I, Title 18, *Code of Federal Regulations*, as follows:

PART 154—RATE SCHEDULES AND TARIFFS

1. The authority citation for part 154 continues to read as follows:

Authority: 15 U.S.C. 717-717w; 31 U.S.C. 9701; 42 U.S.C. 7102-7352.

2. Revise section 154.402 to read as follows:

§ 154.402 ACA expenditures.

(a) *Requirements.* Upon approval by the Commission, a natural gas pipeline company may adjust its rates, annually, to recover from its customers annual charges assessed by the Commission under part 382 of this chapter pursuant to an annual charge adjustment clause

(ACA clause). Prior to the start of each fiscal year, the Commission will post on its Web site the amount of annual charges to be flowed through per unit of energy sold or transported (ACA unit charge) for that fiscal year. A company's ACA clause must be filed with the Commission and must incorporate by reference the ACA unit charge for the upcoming fiscal year as posted on the Commission's Web site. A company must incorporate by reference the ACA unit charge posted on the Commission's Web site in each of its rate schedules applicable to sales or transportation deliveries. The company must apply the ACA unit charge posted on the Commission's Web site to the usage component of rate schedules with two-part rates. A company may recover annual charges through an ACA unit charge only if its rates do not otherwise reflect the costs of annual charges assessed by the Commission under § 382.106(a) of this chapter. The applicable annual charge, required by § 382.103 of this chapter, must be paid before the company applies the ACA unit charge. Upon payment to the Commission of its annual charges, the ACA unit charge for that fiscal year will be incorporated by reference into the company's tariff, effective throughout that fiscal year.

(b) *Application for Rate Treatment Authorization.* A company seeking authorization to use an ACA unit charge must file with the Commission a separate ACA tariff record containing:

(1) A statement that the company is collecting an ACA unit charge, as calculated by the Commission, applicable to all the pipeline's sales and transportation rate schedules,

(2) A statement that the ACA unit charge, as revised annually and posted on the Commission's Web site, is incorporated by reference into the company's tariff,

(3) For companies with existing ACA clauses, a proposed effective date of the tariff change of October 1, 2013; for companies seeking to utilize an ACA clause after October 1, 2013, a proposed effective date 30 days after the filing of the tariff record, unless a shorter period is specifically requested in a waiver petition and approved), and

(4) A statement that the pipeline will not recover any annual charges recorded in FERC Account 928 in a proceeding under subpart D of this part

* * * * *

[FR Doc. 2012-26105 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

²⁷ This number is derived by multiplying the hourly figure (6) by the cost per hour (\$59). 6 hrs * \$59/hr = \$354.

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Part 341****[Docket No. RM12-15-000]****Filing, Indexing and Service Requirements for Oil Pipelines****AGENCY:** Federal Energy Regulatory Commission, DOE.**ACTION:** Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to amend its regulations under the Interstate Commerce Act.¹ The Commission proposes to rewrite, remove, and update its regulations governing the form, composition and filing of rates and charges by interstate oil pipelines for transportation in interstate commerce. This proposal is a part of the Commission's ongoing program to review its filing and reporting requirements and reduce unnecessary burdens by eliminating the collection of data that are not necessary to the performance of the Commission's regulatory responsibilities.

DATES: Comments are due November 28, 2012.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- **Electronic Filing through <http://www.ferc.gov>.** Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

- **Mail/Hand Delivery:** Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Aaron Kahn (Technical Issues), 888 First Street NE., Washington, DC 20426, (202) 502-8339, aaron.kahn@ferc.gov.

Michelle A. Davis (Legal Issues), 888 First Street NE., Washington, DC 20426, (202) 502-8687, michelle.davis2@ferc.gov.

141 FERC ¶ 61,036

Before Commissioners: Jon Wellinghoff, Chairman; Philip D. Moeller, John R.

Norris, Cheryl A. LaFleur, and Tony T. Clark.

Issued October 18, 2012

1. The Federal Energy Regulatory Commission (Commission or FERC) proposes to amend Part 341 of its regulations to rewrite, remove, and update its regulations governing the form, composition and filing of rates and charges by interstate oil pipelines for transportation in interstate commerce.² This proposal is a part of the Commission's ongoing program to review its filing and reporting requirements and reduce unnecessary burdens by eliminating the collection of data that are not necessary to the performance of the Commission's regulatory responsibilities.

I. Background

2. Section 6 of the Interstate Commerce Act (ICA) requires interstate oil pipelines to file rates, fares, and charges for transportation on their systems, and also to file copies of contracts with other common carriers for such traffic. Similarly, section 20 of the ICA requires annual or special reports from carriers subject to the ICA collected by the Commission.³ These requirements are reflected in 18 CFR Parts 341 and 357 of the Commission's regulations.⁴

3. In 2008, the Commission adopted Order No. 714, which required that all tariffs and tariff revisions and rate change applications for oil pipelines and other FERC-regulated entities be filed electronically according to a set of standards developed in conjunction with the North American Energy Standards Board.⁵ The Commission adopted Order No. 714, in part, to comply with the Paperwork Reduction Act, the Government Paperwork Elimination Act, and the E-Government Act of 2002 by developing the capability to file electronically with the Commission via the Internet. As relevant here, the Commission reasoned that electronic filing provides for easier tracking of document filing activity; potentially reduces mailing and courier fees; allows concurrent access to the tariff filing by multiple parties as well as the ability to download and print tariff filings; and provides automatic email notification to an applicant of receipt of the filing. Consequently, since April 1, 2010, all tariff filings with the

Commission must be made electronically.⁶

II. Discussion

4. As noted, sections 6 and 20 of the ICA require interstate oil pipelines to file rates, fares, and charges for transportation on their systems, and also to file copies of contracts with other common carriers for such traffic. The Commission now proposes an overhaul of its regulations in Part 341 that incorporate "housekeeping" changes to eliminate obsolete language and sections. The proposed Part 341 changes represent reorganization, rewriting, updating, modification, consolidation, and pruning of the current regulations. The changes provide for more useful and less burdensome data filed in electronic format. In an effort to increase public access to interstate oil pipeline tariffs, reduce interstate oil pipelines' regulatory burden of making tariff filings, and to improve interstate oil pipeline service to their shippers, the Commission proposes modifying Part 341 of its regulations. Many of these changes reflect the requirements established in Order No. 714.

III. Proposed Revisions**A. Posting Requirements****1. Eliminating Paper Posting**

5. Consistent with the Commission's goal to streamline its procedures to eliminate unnecessary regulatory obligations, the Commission proposes to eliminate the paper posting requirements of sections 341.0(a)(7), 341.7, and 341.3(c) of its regulations. Section 341.0(a)(7) currently provides that oil pipelines must post their tariffs by making them "available during regular business hours for public inspection in a convenient form and place at the carrier's principal office and other offices of the carrier where business is conducted with affected shippers, or placing a copy on the Internet in a form accessible by the public." Similarly, section 341.7 requires that "[c]oncurrences must be maintained at carriers' offices and produced upon request."⁷ Lastly, section 341.3(c) lays out the requirements for "loose-leaf tariffs," i.e., paper tariffs.

6. The Commission proposes to revise 341.0(a)(7) to eliminate the requirement that oil pipelines make their tariffs "available for public inspection in a convenient form and place at the

² 18 CFR Part 341 (2012).

³ See 49 U.S.C. app. 6, 20 (1988).

⁴ See also 18 CFR Parts 341, 357 (2012) (implementing the filing and reporting requirements of sections 6 and 20 of the ICA).

⁵ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

⁶ *Id.* P 104.

⁷ 18 CFR 341.7 (2012). See also 18 CFR 341.0(a)(2) (defining a concurrence as the agreement of a carrier to participate in the joint rates or regulations published by another carrier).

¹ 49 app. U.S.C. 1-85 (2000).

carriers' principal office and other offices where business is conducted." Instead, consistent with the requirements for public utilities and interstate natural gas pipelines, the Commission proposes to mandate that oil pipelines electronically post their currently effective, pending and suspended tariffs on their public Web sites.⁸ The Commission also proposes to revise section 341.7 of its regulations to eliminate the requirement that "concurrences be maintained at carriers' offices" in paper form. In conjunction with these changes, the Commission proposes to update section 341.3 of its regulations by removing subsection 341.3(c), which references outdated "loose-leaf tariffs." These proposals should reduce the burden on interstate oil pipelines while increasing the ease of accessing oil pipeline tariffs for shippers and possibly the oil pipelines themselves.

2. Service of Filings

7. The Commission proposes to revise section 341.1(a) of its regulations to become consistent with section 385.2010 of its regulations by eliminating an oil pipeline's obligation to "serve tariff publications and justifications to each shipper and subscriber" by paper. Section 385.2010(f)(2) provides that, subject to certain limitations and exceptions, "service of any document in proceedings commenced on or after March 21, 2005, must be made by electronic means unless the sender and recipient agree otherwise or the recipient's email address is unavailable from the official service list."⁹ This proposed change will create a uniform service requirement for all Commission-regulated entities and eliminate any ambiguity regarding the Commission's preferred mode of service. Moreover, this proposal should reduce the burden on interstate oil pipelines while increasing ease of tracking document filing activity and potentially reducing mailing and courier fees.

3. Index of Effective Tariffs

8. As part of its efforts to eliminate unnecessary filing requirements, the Commission proposes to make changes to section 341.9 of its regulations, which specifies the information that an oil

pipeline's tariff index must contain and how it must be organized. Section 341.9(a) of the Commission's regulations provides that each Commission-regulated "carrier must publish as a separate tariff publication under its FERC Tariff numbering system, a complete index of all effective tariffs to which it is a party * * *." Section 341.9(e) further provides that the "index must be kept current by supplements numbered consecutively. The supplements may be issued quarterly. At a minimum, the index must be reissued every four years."

9. The Commission proposes to eliminate the requirement that oil pipelines make a tariff filing setting forth an index of all effective tariffs to which it is a party and replace such requirement with an obligation that oil pipelines post the index of tariffs on their public Web sites. The Commission also proposes to simplify the information oil pipelines must include by requiring that the index of tariffs identify for each tariff: (1) The product being shipped and (2) the origin and destination points for that product. The Commission further proposes that oil pipelines update the index of tariffs within ninety days of any change.

10. This proposal would eliminate the need of an oil pipeline to make a tariff filing. The posting of index tariffs on an oil pipeline's public Web site would also provide shippers with more current information. Importantly, this proposal would simplify what is required to be contained in the index of tariffs without negatively impacting the information provided to shippers.

11. Similarly, many oil pipelines only have one or two tariffs on file with the Commission. For oil pipelines with a limited number of tariffs, the Commission questions the value of an index of tariffs and believes that such index provides little benefit to shippers. Therefore, the Commission proposes to require only oil pipelines with more than two tariffs to maintain an index of tariffs on their public Web sites. The Commission estimates that the proposed changes to the index of tariff requirements will eliminate approximately twenty-two unnecessary filings each year. These changes will still provide shippers and the public at large with current and useful information, without any negative impact.

B. Electronic Updates and Filing Requirements

12. Many of the tariff filing and tariff maintenance requirements currently stated in part 341 of the Commission's regulations are premised on the

maintenance of paper records. Since the implementation of Order No. 714, however, some oil pipeline tariff filings are now obsolete. In light of these changes, as explained below, the Commission proposes removing the filing requirements for amendments to tariff provided for under section 341.4 of the Commission's regulations, including the amendment and suspension requirements.

1. Tariff Supplements

13. Section 341.4(a)(1) of the Commission's regulations allows an oil pipeline's tariff to be supplemented only once.¹⁰ The Commission believes that this provision is now outdated because it is practical for oil pipelines to modify electronic tariffs at any time. Accordingly, the Commission proposes to delete the provisions in section 341.4(a)(1).

2. Amended, Canceled or Reissued Tariff Supplement Data

14. Section 341.4(a)(2) of the Commission's regulations sets forth the requirements for maintenance of oil pipeline tariffs that are amended, canceled, or reissued.¹¹ In Order No. 714, the Commission required oil pipelines to maintain Record Version Numbers for each tariff record.¹² Consequently, supersession data is now maintained electronically¹³ and the provisions set forth in section 341.4(a)(2) are obsolete. Consequently, the Commission proposes deleting these provisions.

3. Cancelling Tariffs

15. The Commission proposes to consolidate the instructions for cancellation of tariffs into Section 341.5 of the Commission's regulations.¹⁴ Section 341.4(b) of the Commission's regulations requires oil pipelines to file supplements to an amendment to a tariff "when tariffs are canceled without reissue."¹⁵ Section 341.5 of the

¹⁰ 18 CFR 341.4(a)(1) (2012) (limiting supplements to one effective supplement per tariff, except for cancellation, postponement, adoption, corrections, and suspension supplements).

¹¹ 18 CFR 341.4(a)(2) (2012).

¹² Record Version Number is the representation of the version of the Tariff Record. See *Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300 and 341 Tariff Filings (Implementation Guide)* located on the Commission Web site.

¹³ Tariff record supersession data includes the following: Record Current Status, Current Effective Date, and FERC Order Date. See *eTariff Viewer* located on the Commission's Web site at <http://www.ferc.gov/>.

¹⁴ 18 CFR 341.5 (2012).

¹⁵ 18 CFR 341.4(b) (2012). See also 18 CFR 341.3(b)(10)(ii) (2012) (detailing tariff reissuance requirements).

⁸ The terms of "effective," "pending" and "suspended" are those used by Order No. 714 and eTariff, and for this document. The equivalent terms in 18 CFR 341.0(b)(4) (2012) are "current," "proposed" and "suspended," respectively. See also 18 CFR 35.7 (2012) (establishing the Public Utility Electronic Filing Requirements) and 18 CFR 284.12 (2012) (establishing the Natural Gas Electronic Filing Requirements).

⁹ 18 CFR 385.2010 (2012).

Commission's regulations also details requirements in the event that an oil pipeline's tariff is canceled. Rather than addressing cancellation in two separate regulations, the Commission proposes to consolidate and simplify the requirements relating to oil pipeline tariff cancellations into section 341.5 of the Commission's regulations by detailing that if an oil pipeline tariff is no longer offered, then the oil pipeline must cancel such tariff within thirty days of the termination of the tariff.

4. Suspension Supplements

16. The Commission proposes to eliminate the filing requirements for oil pipeline suspension supplements required by section 341.4(f) of the Commission's regulations. Section 341.4(f) provides for oil pipelines a "suspension supplement must be filed for each suspended tariff or suspended part of a tariff within 30 days of the issuance of a suspension order."¹⁶ Section 341.1(f) further provides that the suspension supplement, which must be served on all subscribers, "must include the date it is issued, a reproduction of the ordering paragraphs of the suspension order, a statement that the tariff or portion of the tariff was suspended until the date stated in the suspension order, a reference to the docket number under which the suspension order was issued, and a statement that the previous tariff publication remains in effect."

17. This suspension supplement tariff record filing was originally premised on the maintenance of a paper records and the service of such paper tariff records, which is now obsolete because of the electronic filing requirements of Order No. 714. Accordingly, the Commission proposes eliminating the current filing requirements of section 341.4(f) and replacing them with an obligation of oil pipelines to serve Commission suspension orders on individual pipeline subscriber lists. This will eliminate the tariff filing for the suspension supplement, as well as subsequent filings an oil pipeline must make to remove a suspension supplement. The Commission estimates that this will eliminate approximately twelve filings each year.

5. Amendments to Tariffs

18. The Commission proposes further revisions to section 341.4 of its regulations to treat all amendments to pending tariffs, whether ministerial or substantive, in the same manner as they are treated for public utilities and natural gas companies. Section 341.4(e)

of the Commission's regulations limits an oil pipeline from filing more than three "correction supplements" to correct "typographical or clerical errors" per tariff. In contrast, the Commission's regulations do not allow an oil pipeline to make non-ministerial tariff changes without filing to withdraw any pending proposal and making a new tariff filing.

19. In the electronic filing environment established by Order No. 714, the Commission does not believe that it should limit the number of times an oil pipeline may make corrections to a tariff record. Therefore, the Commission proposes to revise section 341.4 of its tariff to treat all amendments to pending tariff records, whether ministerial or substantive, the same to allow an oil pipeline to file to amend or to modify a tariff record at any time during the pendency of the Commission acting on such tariff record. In addition, the Commission proposes creating a tariff record amendment process that parallels the existing business process for amending pending statutory tariff filings under its public utility and natural gas programs.¹⁷ Under this proposal, an oil pipeline will be able to keep its requested effective date from its original tariff record filing, while giving interested parties a full comment period to address any issues relating to a proposed amendment. An amendment will toll the notice period as provided in section 341.2(b) of the Commission's regulations, for the original filing, and establish a new date for final Commission action.

6. Adoption

20. Section 341.6(a) provides an oil pipeline must file a tariff and "notify the Commission when there is: (1) A change in the legal name of the carrier; (2) a transfer of all of the carrier's properties; or (3) a change in ownership of only a portion of the carrier's property." This filing must be made by the oil pipeline "as soon as possible but no later than [thirty] days following such occurrence." This filing is commonly known as an "Adoption Notice." Section 341.6(c) further provides that "when a carrier changes its legal name, or when ownership of all a carrier's properties is transferred, or when the ownership of a portion of a carrier's properties is transferred to another carrier, the adopting carrier must file and post an adoption notice." In these instances, the adopting oil pipeline must make a tariff filing within thirty days transferring into its

Commission tariff records, the rates that the adopting oil pipeline is adopting (filing to bring tariffs forward).

21. To eliminate unnecessary filings, the Commission proposes consolidating the Adoption Notice filing and the filing to integrate the tariff records of the adopting carrier. To implement this change, the Commission proposes modeling sections 341.6(a) on section 154.603 of the Commission's natural gas regulations. Section 154.603 provides that "[w]henver the tariff * * * of a natural gas company on file with the Commission is to be adopted by another company or person as a result of an acquisition, or merger * * * the succeeding company must file with the Commission, and post within 30 days after such succession, a tariff filing * * * bearing the name of the successor company." The Commission estimates that this proposal will eliminate approximately fifteen Adoption Notice filings each year.

7. Implementation

22. If the Commission adopts the proposed changes to the types of filings discussed above, the Secretary of the Commission will issue a revised list of Type of Filing Codes.¹⁸

IV. Information Collection Statement

23. The Office of Management and Budget (OMB) regulations require approval of certain information collection requirements imposed by agency rules.¹⁹ Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Paperwork Reduction Act (PRA)²⁰ requires each Federal agency to seek and obtain OMB approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability.²¹

24. The Commission is submitting these reporting requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are

¹⁸ See 18 CFR 375.302(z) (2012). The *Implementation Guide* describes the Type of Filing contents. The Type of Filing Code list is posted on the Commission's Web site at http://www.ferc.gov/docs-filing/etariff/filing_type.csv.

¹⁹ 5 CFR 1320 (2012).

²⁰ 44 U.S.C. 3501–3520 (2012).

²¹ OMB's regulations at 5 CFR 1320.3(c)(4)(i) (2012) require that "Any recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons."

¹⁶ 18 CFR 341.4(f) (2012).

¹⁷ 18 CFR 35.17(b) and 18 CFR 154.205(b) (2012) (respectively).

solicited on the Commission’s need for this information, whether the information will have practical utility, the accuracy of provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent’s burden, including the use of automated information techniques.

25. The Commission’s estimate of the change in Public Reporting Burden and cost related to the proposed rule in Docket RM12–15–000 follow.

26. The proposed regulations will eliminate or reduce several filing requirements as obsolete and no longer necessary. The eliminated or reduced filings include the filing of Index of Tariffs, reduced number of adoption

filings, eliminated suspension supplements, and reduced number of filings necessary to amend incorrect filings. Based upon a review of the filings made by interstate oil pipelines since eTariff was implemented in April 2010, the Commission estimates a reduction of 99 tariff filings and 1,082 burden hours per year, as shown in the table below.

RM12–15, FERC–550	Reduction in filings	Estimated hours per filing	Total hours	Total cost reduction ²²
Revised 341.4, Amendments to tariff filings	50	11	550	\$30,250
Revised 341.6, Adoption of the tariff by a successor.	15	11	165	9,075
Elimination of 341.4(f) (Suspension Supplements)	12	11	132	7,260
Revised 341.9, Index of Tariffs	22	11	242	13,310
Total	99	.....	1,089	59,895

27. The Commission proposes to revise Part 341’s tariff posting requirements for interstate oil pipelines from paper to electronic format. There is no change in burden for the pipelines to maintain the status of their tariffs for public inspection, as that requirement is

unchanged. The Commission recognizes that there will be a one-time increased burden involved in the initial implementation associated with purchasing software and updating Web sites to post their tariff electronically. We estimate a one-time additional cost

of \$250 per respondent for non-labor costs. Additionally we estimate a one-time hourly burden of 20 hours per respondent for updating the web sites for posting of the tariffs.

RM12–15, FERC–550	Number of pipelines with tariffs	Estimated additional one-time burden per filer (hr.)	Total estimated additional one-time burden (hr.)	Estimated additional one-time non-labor hours cost per filer (\$)	Total estimated one-time hourly burden cost per filer (\$)
Revisions to 18 CFR Part 341	167	20	3,340	250	1,097

Information Collection Costs: The Commission seeks comments on the costs and burden to comply with these requirements.

Total additional one-time non-labor hour cost = \$41,750 (\$250 per respondent).²³

Savings per year = \$468 per respondent.²⁴

Total additional one-time hourly burden cost = \$183,199 (\$1,097 per respondent).²⁵

Burden hour savings per year after implementation year = 8.4 hours per respondent

Title: FERC–550, Oil Pipeline: Tariff Filing

Action: Proposed Revisions to the FERC–550.

OMB Control No: 1902–0089.

Respondents: Public and non-public utilities.

Frequency of Responses: Initial implementation and ongoing reduction in burden.

Necessity of the Information: The proposals in this Proposed Rule would, if implemented, increase transparency to both shippers and the public, simplify some filings, reduce the regulatory burden placed on oil pipelines, and modernize Part 341 in accordance with the Commission’s electronic systems.

Internal review: The Commission has reviewed the proposed changes and has determined that the changes are necessary. These requirements conform

to the Commission’s need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: DataClearance@ferc.gov, Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this rule may also be sent to the Office of

²² The cost figure is based on management analyst work at \$38.50 per hour. We adjusted the \$38.50 figure to account for benefits resulting in a loaded figure of \$55 per hour (\$38.5/0.704). We obtained wage and benefit information from Bureau of Labor Statistics information at http://bls.gov/oes/current/naics2_22.htm and <http://www.bls.gov/news.release/ecec.nr0.htm>.

²³ The \$250 is an aggregate number. Some respondents will incur little to no expense in order

to satisfy the proposals in this rulemaking as they already post their tariffs on their web sites and/or have software with that functionality.

²⁴ Based on an annual reduction of \$59,895 divided by 128, the average number of respondents per year. The number of pipelines with tariffs is greater than the number of respondents because not all pipelines with tariffs make tariff filings every year.

²⁵ The cost figure is based on 5 hours of computer analyst work (\$39.02/hour) and 15 hours of management analyst work (\$38.50/hour) resulting in a total of \$772.60. We adjusted the \$772.60 figure to account for benefits resulting in a loaded figure of \$1,097 (\$772.60/0.704). We obtained wage and benefit information from the Bureau of Labor Statistics (at http://bls.gov/oes/current/naics2_22.htm and at <http://www.bls.gov/news.release/ecec.nr0.htm>).

Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at oir_submission@omb.eop.gov. Please reference OMB Control No. 1902-0089, FERC-550 and the docket number of this proposed rulemaking in your submission.

V. Environmental Analysis

28. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.²⁶ The actions taken here fall within categorical exclusions in the Commission's regulations for information gathering, analysis, and dissemination.²⁷ Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

VI. Regulatory Flexibility Act Certification

29. The Regulatory Flexibility Act of 1980 (RFA) requires agencies to prepare certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.²⁸ Agencies are not required to make such an analysis if a rule would not have such an effect.

30. The Commission does not believe that this proposed rule will have a significant impact on small entities, nor will it impose upon them any significant costs of compliance. The Commission identified 29 small entities as respondents to the requirements in the proposed rule.²⁹ As explained above, the changes to Part 341 of the Commission's regulations will only impose a small burden in the first year (\$2,460 per respondent), and will result in net savings for other years (\$3,369 per company). The Commission does not estimate that there are any other regulatory burdens associated with this

²⁶ *Regulations Implementing the National Environmental Policy Act*, Order No. 486, FERC Stats. & Regs., Regulations Preambles 1986-1990 ¶ 30,783 (1987).

²⁷ 18 CFR 380.4(a)(5) (2012).

²⁸ 5 U.S.C. 601-12 (2012).

²⁹ The RFA definition of "small entity" refers to the definition provided in the Small Business Act, which defines a "small business concern" as a business that is independently owned and operated and that is not dominant in its field of operation. 15 U.S.C. 632 (2012). The Small Business Size Standards component of the North American Industry Classification System defines a small oil pipeline company as one with less than 1,500 employees. See 13 CFR Parts 121, 201 (2012).

final rule. Thus, the Commission certifies that the final rule would not have a significant economic impact on a substantial number of small entities.

VII. Comment Procedures

31. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 28, 2012. Comments must refer to Docket No. RM12-15-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

32. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

33. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

34. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

35. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

36. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

37. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202-502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

List of subjects in 18 CFR Part 341

Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 341, Chapter I, Title 18, *Code of Federal Regulations*, as follows.

PART 341—OIL PIPELINE TARIFFS: OIL PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT

1. The authority citation for Part 341 continues to read as follows:

Authority: 42 U.S.C. 7101-7352; 49 U.S.C. 1-27.

2. Section 341.0(a)(7) is revised to read as follows:

§ 341.0 Definitions; application.

(a) * * *
(7) *Posting* or *Post* means making current, proposed and suspended tariffs available on a carrier's public Web site.
* * * * *

3. In § 341.2(a)(1), revise the third sentence in paragraph 341.2(a)(1), to read as follows:

§ 341.2 Filing requirements.

(a) * * *
(1) * * * Such service shall be made in accordance with the requirements of § 385.2010 of this chapter.
* * * * *

§ 341.3 [Amended]

4. In § 341.3 remove paragraph (c).
5. Section 341.4 is revised to read as follows:

§ 341.4 Amendments of tariff filings.

A carrier may file to amend or modify a tariff contained in a tariff filing at any time during the pendency of the filing. Such filing will toll the notice period as provided in § 341.2(b) for the original filing, and establish a new date on which the entire filing will become effective, in the absence of Commission action, no earlier than 31 days from the date of the filing of the amendment or modification.

6. Section 341.5 is revised to read as follows:

§ 341.5 Cancellation of Tariffs.

Carriers must cancel tariffs when the service or transportation movement is terminated. If the service in connection with the tariff is no longer in interstate commerce, the tariff publication must so state. Carrier must file such cancellations within 30 days of the termination of service.

7. Section 341.6 is revised to read as follows:

§ 341.6 Adoption of the tariff by a successor.

Whenever the tariff(s) of a carrier on file with the Commission are to be adopted by another carrier as a result of an acquisition, merger, or name change, the succeeding company must file with the Commission, and post within 30 days after such succession, a tariff in the electronic format required by § 341.1 bearing the name of the successor company.

8. Section 341.7 is revised to read as follows:

§ 341.7 Concurrences.

Concurrences must be shown in the carriers' tariff and maintained consistent with the requirements of Part 341 of this chapter.

9. Amend § 341.9 by:

- a. In paragraph (a) introductory text, revise the first sentence;
- b. Adding paragraph (a)(5);
- c. Removing paragraphs (b), (c), (d) and (f); and
- d. Redesignating paragraph (e) as paragraph (b) and revising it.

The revisions and addition read as follows:

§ 341.9 Index of tariffs.

(a) Each carrier with more than two tariffs or concurrences must post on its public Web site a complete index of all effective tariffs to which it is a party, either as an initial, intermediate, or delivering carrier. * * *

* * * * *

(5) *Product Shipped and Origin.* Each index must identify, for each tariff, the product being shipped and the origin and destination points for that product.

(b) *Updates.* The index of tariffs must be updated within 90 days of any change to an effective tariff.

§ 341.11 [Amended]

10. In section 341.11 remove the second sentence in paragraph (b).

§ 341.13 [Amended]

11. In section 341.13, remove the second sentence in paragraph (c).

[FR Doc. 2012-26142 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0521; FRL-9745-4]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). This revision pertains to EPA's greenhouse gas (GHG) permitting provisions as promulgated on June 3, 2010. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before November 28, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2012-0521 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email:* cox.kathleen@epa.gov.

C. *Mail:* EPA-R03-OAR-2012-0521, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2012-0521. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your

identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy 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 Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: David Talley, (215) 814-2117, or by email at talley.david@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On October 12, 2011, DNREC submitted a proposed revision to the Delaware SIP. The revision is to 7 DE Admin. Code 1125—Requirements for Preconstruction Review. The amendments incorporate preconstruction permitting requirements for GHG sources consistent with federal requirements.

I. Background

On October 12, 2011, DNREC submitted a revision to EPA for approval into the Delaware SIP to establish appropriate emission thresholds for determining which new or modified stationary sources are

subject to Delaware's Prevention of Significant Deterioration (PSD) permitting requirements for GHG emissions. Subsequent to that submittal, it was discovered that Delaware's proposed revision contained an error which would have inadvertently and incorrectly limited the circumstances under which a source could trigger PSD requirements for GHG emissions. Delaware initiated steps to undertake rulemaking action to correct the error, and on August 9, 2012, submitted a formal supplement to the October 12, 2011 SIP submittal. The supplement contained the corrected text of 7 DE Admin. Code 1125. Final approval of Delaware's October 12, 2011 SIP revision will put in place the GHG emission thresholds for PSD applicability set forth in EPA's "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule," (the Tailoring Rule) Final Rule, 75 FR 31514 (June 3, 2010), ensuring that smaller GHG sources emitting less than these thresholds are not subject to permitting requirements.¹ Pursuant to section 110 of the CAA, EPA is proposing to approve this revision into the Delaware SIP.

Today's proposed action on the Delaware SIP generally relates to four federal rulemaking actions. The first rulemaking action is EPA's Tailoring Rule. The second rulemaking action is EPA's "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call," Proposed Rule (GHG SIP Call), 75 FR 53892 (September 2, 2010). The third rulemaking action is EPA's "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan," Proposed Rule, 75 FR 53883 (September 2, 2010) (GHG FIP), which serves as a companion rulemaking action to EPA's proposed GHG SIP Call. The fourth rulemaking action is the "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans" 75 FR 82536 (Narrowing Rule) (December 30, 2010). A summary of each of these rulemaking actions is provided below.

In the first rulemaking action, the Tailoring Rule, EPA established appropriate GHG emission thresholds

for determining the applicability of PSD requirements to GHG-emitting sources. In the second rulemaking action, the GHG SIP Call, EPA found that the EPA-approved PSD programs in 13 States (not including Delaware) were substantially inadequate to meet CAA requirements because they did not appear to apply PSD requirements to GHG-emitting sources. For each of these States, EPA proposed to require the State (through a "SIP Call") to revise its SIP as necessary to correct such inadequacies. EPA proposed an expedited schedule for these States to submit their SIP revision, in light of the fact that as of January 2, 2011, certain GHG-emitting sources were subject to the PSD requirements and may not have been able to obtain a PSD permit in order to construct or modify. In the third rulemaking action, the GHG FIP, EPA issued a FIP to apply in any state that was unable to submit, by its deadline, a SIP revision to ensure that the state had authority to issue PSD permits for GHG-emitting sources. Because Delaware already had authority to regulate GHGs, Delaware is only seeking to revise its SIP to put in place the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule, thereby ensuring that smaller GHG sources emitting less than these thresholds are not subject to permitting requirements for sources of GHG. In the Narrowing Rule, EPA limited its approval of those states' programs which had the authority to regulate GHG's, but lacked a vehicle to limit applicability to the higher thresholds established by the Tailoring Rule.

For a detailed discussion of GHGs and GHG-emitting sources, the CAA PSD program, minimum SIP elements for a PSD program, and EPA's recent actions regarding GHG permitting, the relationship between the proposed Delaware SIP revision and EPA's other national rulemakings, as well as EPA's analysis of Delaware's SIP revision, refer to the Technical Support Document in the docket for this action which can be found at www.regulations.gov (Docket No. EPA-R03-OAR-2012-0521).

II. EPA's Analysis of Delaware's SIP Revision

On October 12, 2011, DNREC submitted a proposed revision to Delaware's SIP to EPA for approval. The revision is to 7 DE Admin. Code 1125—Requirements for Preconstruction Review.

On July 29, 2010, Delaware provided a letter to EPA with confirmation that the state not only had the authority to regulate GHG in its PSD and title V programs, but could also interpret the

term "subject to regulation" consistent with the Tailoring Rule. Nevertheless, Delaware undertook rulemaking to explicitly incorporate the Tailoring Rule thresholds into their PSD program. Delaware's October 12, 2011, proposed SIP revision establishes thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under Delaware's PSD program.

The changes to Delaware's PSD program regulations at 7 DE Admin. Code 1125 are substantively the same as the federal provisions amended in EPA's Tailoring Rule. As part of its review of the Delaware submittal, EPA performed a line-by-line review of Delaware's proposed revisions and has preliminarily determined that they are consistent with the Tailoring Rule. The August 9, 2012 revision that was formally submitted as a supplement to the October 12, 2011 submittal addresses an error in the definition of "Subject to Regulation" at 7 DE Admin. Code 1125, section 1.9—Definitions. The definition as originally submitted would have inappropriately limited the circumstances under which a facility can trigger PSD review for its GHG emissions. The proposed revision to the definition submitted in the August 9, 2012 supplement appropriately mirrors the federal requirements. These changes to Delaware's regulations are also consistent with section 110 of the CAA because they are incorporating GHGs for regulation in the Delaware SIP.

III. Proposed Action

Pursuant to section 110 of the CAA, EPA is proposing to approve Delaware's October 12, 2011, SIP revision (as amended by the August 9, 2012 supplement), relating to PSD requirements for GHG-emitting sources. Specifically, Delaware's October 12, 2011, proposed SIP revision establishes appropriate emissions thresholds for determining PSD applicability to new and modified GHG-emitting sources in accordance with EPA's Tailoring Rule. EPA has made the preliminary determination that this SIP revision is approvable because it is in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs. EPA is soliciting public comments on our proposed approval of the revisions to the Delaware SIP. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission

¹ The Tailoring Rule also applies to the title V program, which requires operating permits for existing sources. However, today's action does not affect Delaware's title V program.

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: October 10, 2012.

W.C. Early,

Acting, Regional Administrator, Region III.

[FR Doc. 2012-26522 Filed 10-26-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0608; FRL-9745-6]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Amendments to West Virginia's Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of West Virginia for the purpose of establishing amendments to Legislative Rule, 45 CSR 8—Ambient Air Quality Standards. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because EPA views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 28, 2012.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2012-0608 by one of the following methods:

A. www.regulations.gov. Follow the on-line instructions for submitting comments.

B. *Email:* khadr.asrah@epa.gov.

C. *Mail:* EPA-R03-OAR-2012-0608, Donna Mastro, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2012-0608. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy 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 West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

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

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: October 10, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012-26389 Filed 10-26-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0782; FRL-9747-1]

Determination of Attainment for the San Francisco Bay Area Nonattainment Area for the 2006 Fine Particle Standard; California; Determination Regarding Applicability of Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the San Francisco Bay Area nonattainment area in California has attained the 2006 24-hour fine particle (PM_{2.5}) National Ambient Air Quality Standard (NAAQS). This proposed determination is based upon complete, quality-assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 2006 24-hour PM_{2.5} NAAQS based on the 2009-2011 monitoring period. EPA is further proposing that, if EPA finalizes this determination of attainment, the requirements for this area to submit an attainment demonstration, together with reasonably available control measures (RACM), a

reasonable further progress (RFP) plan, and contingency measures for failure to meet RFP and attainment deadlines shall be suspended for so long as the area continues to attain the 2006 24-hour PM_{2.5} NAAQS.

DATES: Written comments must be received on or before November 28, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2012-0782 by one of the following methods:

1. Federal eRulemaking Portal, at www.regulations.gov, please follow the on-line instructions;
2. Email to ungvarsky.john@epa.gov; or
3. Mail or delivery to John Ungvarsky, Air Planning Office, AIR-2, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information you consider to be CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or email. www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the

hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, (415) 972-3963, or by email at ungvarsky.john@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we", "us" or "our" are used, we mean EPA. We are providing the following outline to aid in locating information in this proposal.

Table of Contents

- I. What determination is EPA making?
- II. What is the background for this action?
 - A. PM_{2.5} NAAQS
 - B. Designation of PM_{2.5} Nonattainment Areas
 - C. How does EPA make attainment determinations?
- III. What is EPA's analysis of the relevant air quality data?
 - A. Monitoring Network and Data Considerations
 - B. Evaluation of Current Attainment
- IV. How does EPA's Clean Data Policy apply to this action?
 - A. Application of EPA's Clean Data Policy to the 2006 PM_{2.5} NAAQS
 - B. History and Basis of EPA's Clean Data Policy
- V. EPA's Proposed Action and Request for Public Comment
- VI. Statutory and Executive Order Reviews

I. What determination is EPA making?

EPA is proposing to determine that the San Francisco Bay Area nonattainment area has clean data for the 2006 24-hour NAAQS for fine particles (generally referring to particles less than or equal to 2.5 micrometers in diameter, PM_{2.5}). This determination is based upon complete, quality-assured, and certified ambient air monitoring data showing the area has monitored attainment of the 2006 PM_{2.5} NAAQS based on 2009-2011 monitoring data. Preliminary data in EPA's Air Quality System (AQS) for 2012 indicate that the area continues to attain the 2006 PM_{2.5} NAAQS. Based on this determination, we are also proposing to suspend the obligations on the State of California to submit certain state implementation plan (SIP) revisions related to attainment of this standard for this area for as long as the area continues to attain the standard.

II. What is the background for this action?

A. PM_{2.5} NAAQS

Under section 109 of the Clean Air Act (CAA or "Act"), EPA has established national ambient air quality standards (NAAQS or "standards") for certain pervasive air pollutants (referred

to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established.

On July 18, 1997, EPA revised the NAAQS for particulate matter to add new standards for PM_{2.5}, using PM_{2.5} as the indicator for the pollutant. EPA established primary and secondary¹ annual and 24-hour standards for PM_{2.5} (62 FR 38652). The annual standard was set at 15.0 micrograms per cubic meter (µg/m³), based on a 3-year average of annual mean PM_{2.5} concentrations, and the 24-hour standard was set at 65 µg/m³, based on the 3-year average of the 98th percentile of 24-hour PM_{2.5} concentrations at each population-oriented monitor within an area.

On October 17, 2006 (71 FR 61144), EPA revised the level of the 24-hour PM_{2.5} NAAQS to 35 µg/m³, based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA also retained the 1997 annual PM_{2.5} standard at 15.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations, but with tighter constraints on the spatial averaging criteria.

B. Designation of PM_{2.5} Nonattainment Areas

Effective December 14, 2009, EPA established the initial air quality designations for most areas in the United States for the 2006 24-hour PM_{2.5} NAAQS. See 74 FR 58688; (November 13, 2009). Among the various areas designated in 2009, EPA designated the San Francisco Bay Area² in California as nonattainment for the 2006 24-hour PM_{2.5} NAAQS.³ The boundaries for this area are described in 40 CFR 81.305.

Within three years of the effective date of designations, states with areas designated as nonattainment for the 2006 PM_{2.5} NAAQS are required to submit SIP revisions that, among other elements, provide for implementation of reasonably available control measures (RACM), reasonable further progress (RFP), attainment of the standard as expeditiously as practicable but no later than five years from the nonattainment

¹ For a given air pollutant, “primary” national ambient air quality standards are those determined by EPA as requisite to protect the public health, and “secondary” standards are those determined by EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

² The San Francisco Bay Area PM_{2.5} nonattainment area includes southern Sonoma, Napa, Marin, Contra Costa, San Francisco, Alameda, San Mateo, Santa Clara and the western part of Solano counties.

³ With respect to the annual PM_{2.5} NAAQS, this area is designated as “unclassifiable/attainment.”

designation (in this instance, no later than December 14, 2014), as well as contingency measures. See CAA section 172(a)(2), 172(c)(1), 172(c)(2), and 172(c)(9). Prior to the due date for submittal of these SIP revisions, the State of California requested that EPA make a determination that the San Francisco Bay Area⁴ nonattainment area has attained the 2006 PM_{2.5} NAAQS and determine that attainment-related SIP submittal requirements are not applicable for as long as the area continues to attain the standard. Today’s proposal responds to the State’s request.

C. How does EPA make attainment determinations?

A determination of whether an area’s air quality currently meets the PM_{2.5} NAAQS is generally based upon the most recent three years of complete, quality-assured data gathered at established State and Local Air Monitoring Stations (SLAMS) in a nonattainment area and entered into the AQS database. Data from air monitors operated by state/local agencies in compliance with EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in AQS when determining the attainment status of areas. See 40 CFR 50.13; 40 CFR part 50, appendix L; 40 CFR part 53; 40 CFR part 58, and 40 CFR part 58, appendices A, C, D, and E. All data are reviewed to determine the area’s air quality status in accordance with 40 CFR part 50, appendix N.

Under EPA regulations in 40 CFR part 50, section 50.13 and in accordance with appendix N, the 2006 24-hour PM_{2.5} standard is met when the design value is less than or equal to 35 µg/m³ (based on the rounding convention in 40 CFR part 50, appendix N) at each monitoring site within the area.⁵ The PM_{2.5} 24-hour average is considered valid when 75 percent of the hourly averages for the 24-hour period are available. Data completeness requirements for a given year are met when at least 75 percent of the

⁴ On December 8, 2011, James Goldstene, Executive Officer of the California Air Resources Board, submitted a request to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, to find the San Francisco Bay Area PM_{2.5} nonattainment area had attained the 2006 24-hour PM_{2.5} NAAQS.

⁵ The PM_{2.5} 24-hour standard design value is the 3-year average of annual 98th percentile 24-hour average values recorded at each monitoring site [see 40 CFR part 50, appendix N, section 1.0(c)], and the 24-hour PM_{2.5} NAAQS is met when the 24-hour standard design value at each monitoring site is less than or equal to 35 µg/m³.

scheduled sampling days for each quarter have valid data.

III. What is EPA’s analysis of the relevant air quality data?

A. Monitoring Network and Data Considerations

In the San Francisco Bay Area PM_{2.5} nonattainment area, the Bay Area Air Quality Management District (BAAQMD) is the agency responsible for monitoring ambient air quality.⁶ BAAQMD submits annual monitoring network plans to EPA. These plans describe the monitoring network operated by BAAQMD in the San Francisco Bay Area nonattainment area and discuss the status of the air monitoring network, as required under 40 CFR 58.10.

Since 2007, EPA regularly reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM_{2.5}, EPA has found that the area’s network plans operated by BAAQMD meet the applicable requirements under 40 CFR part 58. See EPA letters to BAAQMD approving its annual network plans for years 2009, 2010, and 2011.⁷ EPA also concluded⁸ from its Technical System Audit of the BAAQMD Primary Quality Assurance Organization (conducted during the summer of 2009), that the ambient air monitoring network operated by BAAQMD currently meets or exceeds the requirements for the minimum number of SLAMS for PM_{2.5} in the San Francisco Bay Area nonattainment area. BAAQMD annually certifies that the data it submits to AQS are complete and quality-assured.⁹

⁶ The BAAQMD is one of four monitoring agencies in California designated as a Primary Quality Assurance Organization.

⁷ Letter from Joe Lapka, Acting Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Gary Kendall, Director of Technical Services, BAAQMD (December 17, 2009) (approving “2008 Air Monitoring Network Report”); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Eric Stevenson, Director of Technical Services, BAAQMD (November 1, 2010) (approving the “2009 Air Monitoring Network Review for the Bay Area Air Quality Management District”); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Eric Stevenson, Director of Technical Services, BAAQMD (October 31, 2011) (approving BAAQMD’s “2010 Air Monitoring Network Report”).

⁸ Letter from Deborah Jordan, Director, Air Division, U.S. EPA Region IX, to Jack Broadbent, Air Pollution Control Officer, BAAQMD, transmitting “System Audit of the Ambient Monitoring Program: Bay Area Air Quality Management District, May 26–June 4, 2009,” with enclosure, January 18, 2011.

⁹ See, e.g., letter from Jack Broadbent, Executive Officer, BAAQMD, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying calendar year 2011 ambient air quality data and quality assurance data, April 18, 2012.

There were 10 PM_{2.5} SLAMS located throughout the San Francisco Bay Area PM_{2.5} nonattainment area in calendar years 2009, 2010, and 2011. EPA defines specific monitoring site types and spatial scales of representativeness to characterize the nature and location of required monitors. Eight of the sites have a spatial scale of neighborhood scale,¹⁰ and the monitoring objective is population exposure. Two of the sites (i.e., Oakland (AQS ID 06-001-0009) and San Rafael (AQS ID 06-041-0001)) have a spatial scale of middle scale,¹¹ and the monitoring objective is population exposure.¹²

Consistent with the requirements contained in 40 CFR part 50, we have reviewed the quality-assured, and certified PM_{2.5} ambient air monitoring data as recorded in AQS for the applicable monitoring period collected at the monitoring sites in the San Francisco Bay Area nonattainment area and have determined that the data are complete except for the PM_{2.5} data collected at the San Rafael monitoring site.¹³ With respect to the San Rafael site, PM_{2.5} monitoring began in the last

quarter of 2009 and was complete for that one quarter. In 2010, valid samples were collected on only 72% of the scheduled sampling days at the San Rafael monitor during the third quarter of 2010 (July, August, and September) resulting in a data set for the third quarter that does not meet the completeness criterion of 75%. All other quarters of data collected at San Rafael in 2010, and all quarters in 2011 met data completeness requirements. Given that the BAAQMD operates more than the minimum number of PM_{2.5} monitoring sites in the San Francisco Bay Area,¹⁴ the overall completeness of data from all sites (other than the San Rafael site), and the limited nature of the incomplete data set from the San Rafael site during the low PM_{2.5} concentration season, we believe that the data set compiled from the PM_{2.5} monitoring network is sufficient for the purposes of determining whether the San Francisco Bay Area has attained the PM_{2.5} NAAQS. See 40 CFR part 50, appendix N, section 4.2(b).

B. Evaluation of Current Attainment

EPA's evaluation of whether the San Francisco Bay Area PM_{2.5} nonattainment area has attained the 2006 24-hour PM_{2.5} NAAQS is based on our review of the monitoring data and takes into account the adequacy¹⁵ of the PM_{2.5} monitoring network in the nonattainment area and the reliability of the data collected by the network as discussed in the previous section of this document.

Table 1 shows the PM_{2.5} design values for the San Francisco Bay Area nonattainment area monitors based on ambient air quality monitoring data for the most recent complete three-year period (2009–2011). The data show that the design value for the 2009–2011 period was equal to or less than 35 µg/m³ at the monitors.

Therefore, we are proposing to determine, based on the complete, quality-assured data for 2009–2011, that the San Francisco Bay Area has attained the 2006 24-hour PM_{2.5} standard. Preliminary data available in AQS for 2012 indicate that the area continues to attain the standard.

TABLE 1—2009–2011 24-HOUR PM_{2.5} MONITORING SITES AND DESIGN VALUES FOR THE SAN FRANCISCO BAY AREA NONATTAINMENT AREA

Monitoring site	AQS Site identification No.	98th Percentile (µg/m ³)			2009–2011 Design values (µg/m ³)
		2009	2010	2011	
Livermore	06-001-0007	30.7	26.5	27.0	28
Oakland	06-001-0009	24.7	21.7	28.0	25
Concord	06-013-0002	29.2	26.8	24.4	27
San Rafael	06-041-0001	^a 34.1	^b 31.0	25.0	^b 30
San Francisco	06-075-0005	29.4	24.4	26.4	27
Redwood City	06-081-1001	28.0	24.8	24.2	26
Gilroy	06-085-0002	25.1	19.6	22.1	22
San Jose	06-085-0005	29.8	29.2	30.5	30
Vallejo	06-095-0004	33.5	22.8	31.0	29
Santa Rosa	06-097-0003	23.2	22.2	25.9	24

^aPM_{2.5} monitoring at the San Rafael site began in the last quarter of 2009.

^bDoes not meet data completeness requirements.

Source: Design Value Report, August 10, 2012 (in the docket to this proposed action).

¹⁰In this context, “neighborhood” spatial scale defines concentrations within some extended area of the city that has relatively uniform land use with dimensions in the 0.5 to 4.0 kilometers range. See 40 CFR part 58, appendix D, section 1.2.

¹¹In this context, “middle” spatial scale defines the concentration typical of areas up to several city blocks in size with dimensions ranging from about 100 meters to 0.5 kilometer. See 40 CFR part 58, appendix D, section 1.2.

¹²See BAAQMD's 2010 Air Monitoring Network Report (July 1, 2011); U.S. EPA Air Quality System, Monitor Description Report, October 15, 2012.

¹³In March, 2012, a community group based in Marin County, California, brought to EPA's

attention PM_{2.5} data collected in Marin County that was not available in AQS. EPA has reviewed information associated with this monitoring. The monitoring was collected with private, non-Federal Reference Method/Federal Equivalent Method (FRM/FEM) monitors over approximately three months in both winter 2010/2011 and winter 2011/2012. EPA concludes that the monitoring does not meet 40 CFR part 50, appendix L or 40 CFR part 58, and are therefore not appropriate for regulatory use. EPA acknowledges the concerns raised by the community group over wood smoke impacts in sheltered inland valleys during the winter months. Information on additional steps BAAQMD is taking to address wood smoke impacts is described in

BAAQMD's September 20, 2012 letter from Jean Roggenkamp, Deputy Air Pollution Control Officer, Bay Area Air Quality Management District, to Amy Zimpfer, U.S. EPA Region IX.

¹⁴Under EPA monitoring regulations, the minimum number of PM_{2.5} monitoring sites in the San Francisco-Oakland-Fremont Metropolitan Statistical Area (MSA) is two, but the BAAQMD operates six such monitoring sites within the San Francisco-Oakland-Fremont MSA portion of the San Francisco Bay Area nonattainment area, including the San Rafael site.

¹⁵Meets the requirements of 40 CFR part 58.

IV. How does EPA's Clean Data Policy apply to this action?

A. Application of EPA's Clean Data Policy to the 2006 PM_{2.5} NAAQS

In April 2007, EPA issued its PM_{2.5} Implementation Rule for the 1997 PM_{2.5} standard. 72 FR 20586; (April 25, 2007). In March, 2012, EPA published implementation guidance for the 2006 PM_{2.5} standard. See Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, "Implementation Guidance for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)" (March 2, 2012). In that guidance, EPA stated its view "that the overall framework and policy approach of the 2007 PM_{2.5} Implementation Rule continues to provide effective and appropriate guidance on the EPA's interpretation of the general statutory requirements that states should address in their SIPs. In general, the EPA believes that the interpretations of the statute in the framework of the 2007 PM_{2.5} Implementation Rule are relevant to the statutory requirements for the 2006 24-hour PM_{2.5} NAAQS * * *." *Id.*, page 1. With respect to the statutory provisions applicable to 2006 PM_{2.5} implementation, the guidance emphasized that "EPA outlined its interpretation of many of these provisions in the 2007 PM_{2.5} Implementation Rule. In addition to regulatory provisions, the EPA provided substantial general guidance for attainment plans for PM_{2.5} in the preamble to the final the [sic] 2007 PM_{2.5} Implementation Rule." *Id.*, page 2. In keeping with the principles set forth in the guidance, and with respect to the effect of a determination of attainment for the 2006 PM_{2.5} standard, EPA is applying the same interpretation with respect to the implications of clean data determinations that it set forth in the preamble to the 1997 PM_{2.5} standard and in the regulation that embodies this interpretation. 40 CFR 51.1004(c).¹⁶ EPA has long applied this interpretation in regulations and individual rulemakings for the 1-hour ozone and 1997 8-hour ozone standards, the PM-10 standard, and the lead standard.

B. History and Basis of EPA's Clean Data Policy

Following enactment of the CAA Amendments of 1990, EPA promulgated its interpretation of the requirements for implementing the NAAQS in the

General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (General Preamble) 57 FR 13498, 13564 (April 16, 1992). In 1995, based on the interpretation of CAA sections 171 and 172, and section 182 in the General Preamble, EPA set forth what has become known as its "Clean Data Policy" for the 1-hour ozone NAAQS. See Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard" (May 10, 1995). In 2004, EPA indicated its intention to extend the Clean Data Policy to the PM_{2.5} NAAQS. See Memorandum from Steve Page, Director, EPA Office of Air Quality Planning and Standards, "Clean Data Policy for the Fine Particle National Ambient Air Quality Standards" (December 14, 2004).

Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a determination of attainment. See 60 FR 36723 (July 18, 1995) (Salt Lake and Davis Counties, Utah, 1-hour ozone); 61 FR 20458 (May 7, 1996) (Cleveland-Akron-Lorain, Ohio, 1-hour ozone); 61 FR 31832 (June 21, 1996) (Grand Rapids, Michigan, 1-hour ozone); 65 FR 37879 (June 19, 2000) (Cincinnati-Hamilton, Ohio-Kentucky, 1-hour ozone); 66 FR 53094 (October 19, 2001) (Pittsburgh-Beaver Valley, Pennsylvania, 1-hour ozone); 68 FR 25418 (May 12, 2003) (St. Louis, Missouri-Illinois, 1-hour ozone); 69 FR 21717 (April 22, 2004) (San Francisco Bay Area, California, 1-hour ozone); 75 FR 6570 (February 10, 2010) (Baton Rouge, Louisiana, 1-hour ozone); 75 FR 27944 (May 19, 2010) (Coso Junction, California, PM₁₀).

EPA also incorporated its interpretation under the Clean Data Policy in several implementation rules. See Clean Air Fine Particle Implementation Rule, 72 FR 20586 (April 25, 2007); Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2, 70 FR 71612 (November 29, 2005). The Court of Appeals for the District of Columbia Circuit (D.C. Circuit) upheld EPA's rule embodying the Clean Data Policy for the 1997 8-hour ozone standard. *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009). Other courts have reviewed and considered individual rulemakings applying EPA's Clean Data Policy, and have consistently upheld

them in every case. *Sierra Club v. EPA*, 99 F.3d 1551 (10th Cir. 1996); *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004); *Our Children's Earth Foundation v. EPA*, No. 04-73032 (9th Cir. June 28, 2005 (Memorandum Opinion)), *Latino Issues Forum v. EPA*, Nos. 06-75831 and 08-71238 (9th Cir. March 2, 2009 (Memorandum Opinion)).

EPA sets forth below a brief explanation of the statutory interpretations in the Clean Data Policy. EPA also incorporates the discussions of its interpretation set forth in prior rulemakings, including the 1997 PM_{2.5} implementation rulemaking. See 72 FR 20586, at 20603-20605 (April 25, 2007). See also 75 FR 31288 (June 3, 2010) (Providence, Rhode Island, 1997 8-hour ozone); 75 FR 62470 (October 12, 2010) (Knoxville, Tennessee, 1997 8-hour ozone); 75 FR 53219 (August 31, 2010) (Greater Connecticut Area, 1997 8-hour ozone); 75 FR 54778 (September 9, 2010) (Baton Rouge, Louisiana, 1997 8-hour ozone); 75 FR 64949 (October 21, 2010) (Providence, Rhode Island, 1997 8-hour ozone); 76 FR 11080 (March 1, 2011) (Milwaukee-Racine and Sheboygan Areas, Wisconsin, 1997 8-hour ozone); 76 FR 31237 (May 31, 2011) (Pittsburgh-Beaver Valley, Pennsylvania, 1997 8-hour ozone); 76 FR 33647 (June 9, 2011) (St. Louis, Missouri-Illinois, 1997 8-hour ozone); 76 FR 70656 (November 15, 2011) (Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina, 1997 8-hour ozone); 77 FR 31496 (May 29, 2012) (Boston-Lawrence-Worcester, Massachusetts, 1997 8-hour ozone). See also, 75 FR 56 (January 4, 2010) (Greensboro-Winston-Salem-High Point, North Carolina, 1997 PM_{2.5}); 75 FR 230 (January 5, 2010) (Hickory-Morganton-Lenoir, North Carolina, 1997 PM_{2.5}); 76 FR 12860 (March 9, 2011) (Louisville, Kentucky-Indiana, 1997 PM_{2.5}); 76 FR 18650 (April 5, 2011) (Rome, Georgia, 1997 PM_{2.5}); 76 FR 31239 (May 31, 2011) (Chattanooga, Tennessee-Georgia-Alabama, 1997 PM_{2.5}); 76 FR 31858 (June 2, 2011) (Macon, Georgia, 1997 PM_{2.5}); 76 FR 36873 (June 23, 2011) (Atlanta, Georgia, 1997 PM_{2.5}); 76 FR 38023 (June 29, 2011) (Birmingham, Alabama, 1997 PM_{2.5}); 76 FR 55542 (September 7, 2011) (Huntington-Ashland, West Virginia-Kentucky-Ohio, 1997 PM_{2.5}); 76 FR 60373 (September 29, 2011) (Cincinnati, Ohio-Kentucky-Indiana, 1997 PM_{2.5}); 77 FR 18922 (March 29, 2012) (Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown and Lancaster, Pennsylvania, 1997 PM_{2.5}).

The Clean Data Policy represents EPA's interpretation that certain requirements of subpart 1 of part D of

¹⁶ While EPA recognizes that 40 CFR 51.1004(c) does not itself expressly apply to the 2006 PM_{2.5} standard, the statutory interpretation that it embodies is identical and is applicable to both the 1997 and 2006 PM_{2.5} standards.

the Act are by their terms not applicable to areas that are currently attaining the NAAQS.¹⁷ As explained below, the specific requirements that are inapplicable to an area attaining the standard are the requirements to submit a SIP that provides for: Attainment of the NAAQS; implementation of all reasonably available control measures; reasonable further progress (RFP); and implementation of contingency measures for failure to meet deadlines for RFP and attainment.

CAA section 172(c)(1), the requirement for an attainment demonstration, provides in relevant part that SIPs “shall provide for attainment of the [NAAQS].” EPA has interpreted this requirement as not applying to areas that have already attained the standard. If an area has attained the standard, there is no need to submit a plan demonstrating how the area will reach attainment. In the General Preamble (57 FR 13564), EPA stated that no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since “attainment will have been reached.” See also Memorandum from John Calcagni, “Procedures for Processing Requests to Redesignate Areas to Attainment,” (September 4, 1992), at page 6.

A component of the attainment plan specified under section 172(c)(1) is the requirement to provide for “the implementation of all reasonably available control measures as expeditiously as practicable” (RACM). Since RACM is an element of the attainment demonstration, see General Preamble (57 FR 13560), for the same reason the attainment demonstration no longer applies by its own terms, RACM also no longer applies to areas that EPA has determined have clean air. Furthermore, EPA has consistently interpreted this provision to require only implementation of such potential RACM measures that could advance attainment.¹⁸ Thus, where an area is already attaining the standard, no additional RACM measures are required. EPA’s interpretation that the statute requires only implementation of the RACM measures that would advance attainment was upheld by the United States Court of Appeals for the Fifth Circuit (*Sierra Club v. EPA*, 314 F.3d

735, 743–745, 5th Cir. 2002) and by the United States Court of Appeals for the D.C. Circuit (*Sierra Club v. EPA*, 294 F.3d 155, 162–163, D.C. Cir. 2002). See also the final rulemakings for Pittsburgh-Beaver Valley, Pennsylvania, 66 FR 53096 (October 19, 2001) and St. Louis, Missouri-Illinois, 68 FR 25418 (May 12, 2003).

CAA section 172(c)(2) provides that SIP provisions in nonattainment areas must require “reasonable further progress.” The term “reasonable further progress” is defined in section 171(1) as “such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.” Thus, by definition, the “reasonable further progress” provision under subpart 1 requires only such reductions in emissions as are necessary to attain the NAAQS. If an area has attained the NAAQS, the purpose of the RFP requirement has been fulfilled, and since the area has already attained, showing that the State will make RFP towards attainment “[has] no meaning at that point.” General Preamble, 57 FR 13498, 13564 (April 16, 1992).

CAA section 172(c)(9) provides that SIPs in nonattainment areas “shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or [EPA].” This contingency measure requirement is inextricably tied to the reasonable further progress and attainment demonstration requirements. Contingency measures are implemented if reasonable further progress targets are not achieved, or if attainment is not realized by the attainment date. Where an area has already achieved attainment, it has no need to rely on contingency measures to come into attainment or to make further progress to attainment. As EPA stated in the General Preamble: “The section 172(c)(9) requirements for contingency measures are directed at ensuring RFP and attainment by the applicable date.” See 57 FR 13564. Thus these requirements no longer apply when an area has attained the standard.

It is important to note that should an area attain the 2006 PM_{2.5} standard based on three years of data, its obligation to submit an attainment demonstration and related planning submissions is suspended only for so

long as the area continues to attain the standard. If EPA subsequently determines, after notice-and-comment rulemaking, that the area has violated the NAAQS, the requirements for the State to submit a SIP to meet the previously suspended requirements would be reinstated. It is likewise important to note that the area remains designated nonattainment pending a further redesignation action.

V. EPA’s Proposed Action and Request for Public Comment

EPA is proposing to determine that the San Francisco Bay Area nonattainment area in California has attained the 2006 24-hour PM_{2.5} standard based on the most recent three years of complete, quality-assured, and certified data for 2009–2011. Preliminary data available in AQS for 2012 show that this area continues to attain the standard.

EPA further proposes that, if its proposed determination of attainment is made final, the requirements for the San Francisco Bay Area nonattainment area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 2006 PM_{2.5} NAAQS would be suspended for so long as the area continues to attain the 2006 PM_{2.5} NAAQS. EPA’s proposal is consistent and in keeping with its long-held interpretation of CAA requirements, as well as with EPA’s regulations for similar determinations for ozone (see 40 CFR 51.918) and the 1997 fine particulate matter standards (see 40 CFR 51.1004(c)). As described below, any such determination would not be equivalent to the redesignation of the area to attainment for the 2006 PM_{2.5} NAAQS.

Any final action resulting from this proposal would not constitute a redesignation to attainment under CAA section 107(d)(3) because we have not yet approved a maintenance plan for the San Francisco Bay Area nonattainment area as meeting the requirements of section 175A of the CAA or determined that the area has met the other CAA requirements for redesignation. The classification and designation status in 40 CFR part 81 would remain nonattainment for this area until such time as EPA determines that California has met the CAA requirements for redesignating the San Francisco Bay Area nonattainment area to attainment.

If the San Francisco Bay Area nonattainment area continues to monitor attainment of the 2006 PM_{2.5} NAAQS, EPA proposes that the requirements for the area to submit an

¹⁷ This discussion refers to subpart 1 because subpart 1 contains the requirements relating to attainment of the 2006 PM_{2.5} NAAQS.

¹⁸ This interpretation was adopted in the General Preamble, see 57 FR 13498, and has been upheld as applied to the Clean Data Policy, as well as to nonattainment SIP submissions. See *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009); *Sierra Club v. EPA*, 294 F.3d 155 (D.C. Cir. 2002).

attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning requirements related to attainment of the 2006 PM_{2.5} NAAQS will remain suspended. If this proposed rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 2006 PM_{2.5} NAAQS, the basis for the suspension of the attainment planning requirements for the area would no longer exist, and the area would thereafter have to address such requirements.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

VI. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality and to suspend certain federal requirements, and thus, would not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian Tribes and thus this proposed action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Nitrogen oxides, Sulfur oxides, Reporting and recordkeeping requirements.

Dated: October 15, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–26528 Filed 10–26–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 03–123 and 10–51; DA 12–1644]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on matters related to access technology and enhanced database operations for video relay service (VRS) raised in recent filings submitted by CSDVRS, LLC, a VRS provider. In order for the Commission to be in a position to set new rates as it moves forward with the next phase of VRS reform, it also seeks comment on a proposal by the Fund administrator, Rolka Loube Saltzer Associates (RLSA), to modify VRS compensation rates.

DATES: Comments are due on or before November 14, 2012. Reply comments are due on or before November 29, 2012.

ADDRESSES: You may submit comments, identified by CG Docket Nos. 03–123 and 10–51, by any of the following methods:

▪ **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission’s Electronic Comment Filing System (ECFS), through the Commission’s Web site: <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket Nos. 03–123 and 10–51. Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

▪ All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

▪ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

▪ In addition, parties must serve one copy of each pleading with the Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, or via email to fcc@bcpiweb.com.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Gregory Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 559–5158 (voice/videophone), (202) 418–0431 (TTY), or email at Gregory.Hlibok@fcc.gov, or

Robert Aldrich, Consumer and Governmental Affairs Bureau, at (202) 418-0996 (voice), or email at Robert.Aldrich@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program, Public Notice (*VRS Reform and Rates Notice*), document DA 12-1644, released October 15, 2012, in CG Docket Nos. 03-123 and 10-51, seeking comments on access technologies and compensation rates for VRS. The full text of the *VRS Reform and Rates Notice* and copies of any subsequently filed documents in this matter will be available for public inspection and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY-B402, Washington, DC 20554, telephone: (202) 488-5300, fax: (202) 488-5300, or Internet: www.bcpweb.com. This document can also be downloaded in Word or Portable Document Format ("PDF") at: <http://www.fcc.gov/cgb/dro/trs.html>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). Pursuant to 47 CFR 1.1200 *et. seq.*, this matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or

arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

Document DA 12-1644 does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

Background

1. In June 2010, the Commission began a comprehensive review of the rates, structure, and practices of the VRS program. *Structure and Practices of the Video Relay Service Program*, Notice of Inquiry, (*2010 VRS NOI*), CG Docket No. 10-51, published at 75 FR 41863, July 19, 2010. The Commission's goal in beginning that review, and ever since then, has been to reform the VRS program, which for many years had been beset by waste, fraud, and abuse and by compensation rates that had become inflated well above actual cost. Since that time, the Commission has acted to improve the program so that it can continue to provide a valuable

service to deaf and hard-of-hearing consumers as efficiently as possible.

2. The Commission's actions over the past two years have saved the program approximately \$300 million to date. Most significantly, in June 2010, at the same time the Commission issued the *2010 VRS NOI* asking questions about potential fundamental changes to the VRS program, the Commission cut the compensation rate for the bulk of VRS traffic by more than \$1.00 per minute, the first substantial VRS rate reduction in six years. Stressing its "obligation to protect the integrity of the Fund and to deter and detect waste," the Commission stated that it would no longer tolerate "the large discrepancy between actual costs and provider compensation" that had resulted from earlier VRS ratesetting orders. Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order, (*2010 TRS Rate Order*), CG Docket No. 03-123, published at 75 FR 49491, August 13, 2010. *See also* Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Notice of Proposed Rulemaking (*2011 VRS Rate NPRM*), CG Docket Nos. 03-123 and 10-51, published at 76 FR 24442, May 2, 2011.

3. The Commission has taken significant further steps to protect the VRS program's integrity and increase its efficiency since that time. In April 2011, the Commission adopted additional wide-ranging measures to improve oversight of and prevent fraud, waste, and abuse by VRS providers. The Commission required providers to submit detailed call records to justify their requests for compensation, instituted annual as well as unscheduled provider audits, banned providers from tying their employees' wages to the number of calls processed, and prohibited revenue-sharing arrangements between certificated, Fund-eligible service providers and unregulated companies. In July 2011, the Commission tightened the eligibility and certification requirements for VRS providers to ensure that only providers operating in compliance with the Commission's rules would be permitted to provide this service to the public. And in December 2011, the Commission proposed additional substantial reforms to the VRS market structure and the practices of providers. *Structure and Practices of the Video Relay Service Program*; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and

Speech Disabilities, Further Notice of Proposed Rulemaking, (*2011 VRS Reform FNPRM*), CG Docket Nos. 10–51 and 03–123, published at 77 FR 4948, February 1, 2012. These reforms were intended to ensure that the program continues to support services that offer functional equivalence to all eligible users and becomes as immune as possible from the waste, fraud, and abuse that could threaten its viability.

4. Document DA 12–1644 is the next step in these ongoing reform efforts. CGB, on delegated authority, seeks comment on matters raised in recent filings submitted by CSDVRS, LLC, a VRS provider. Moreover, in order for the Commission to be in a position to set new rates as it moves forward with the next phase of VRS reform, the Bureau also seeks comment in document DA 12–1644 on a proposal by the Fund administrator, Rolka Loubé Saltzer Associates (RLSA), to modify VRS compensation rates.

Additional Comment on Structural Reform Options

5. As discussed in the *2010 VRS NOI*, VRS communications require the interaction of three separate yet interlinked components: VRS access technologies, video communication service, and relay service provided by American Sign Language (ASL)-fluent communications assistants (CAs). The Bureau now seeks additional comment on specific proposals to disaggregate these components. The Bureau emphasizes that neither the Commission nor CGB has decided to adopt any of these proposals; CGB is simply seeking input to help develop a more complete record to enable the Commission to better evaluate the various issues in this proceeding.

VRS Access Technology

6. As noted above, CSDVRS has submitted two structural reform proposals to the Commission. The first of these proposes that the Commission facilitate migration of all VRS access technologies to a standard, software based VRS access technology (“application”) that could be used on commonly available off-the-shelf hardware as a means of furthering the Commission’s interoperability and portability goals. The Bureau seeks comment on this proposal, and seek particular comment on the following related questions:

7. The Commission proposed to establish standards for iTRS Access Technology, including VRS Access Technology, in the *2011 VRS Reform FNPRM*. Would the process for establishing and maintaining standards

discussed in the *2011 VRS Reform FNPRM* be appropriate for developing an application or establishing standards for an application? Should the application or key components thereof be open source?

8. Should the Commission mandate use of a single application or allow development of multiple, interoperable applications? Who should be responsible for application development? For example, should the Commission develop, by contract, such an application? How should the developer of the application be compensated?

9. Should providers be able to continue to offer their own internally developed applications? If so, under what conditions? For example, should there be an interoperability testing process? How would such an interoperability testing process be structured?

10. Should the application be full executable, or a core executable or set of libraries (“core”) that can be customized by interested parties (e.g., using published APIs), or both? If core, what key functions should this core contain, such as video encoding, video decoding and session signaling? If core, should there be a certification process before calls placed with the application are compensable? How should that process be structured? Who should be responsible for maintaining and updating applications?

11. What off-the-shelf hardware and operating system platforms should be supported? Should users be responsible for procuring their own off-the-shelf equipment, or should providers be involved in the acquisition and distribution of end user equipment to VRS users?

12. How should consumers be involved in the development, selection, certification and on-going enhancement of either the core or the application?

13. How would users obtain support for issues relating to the application or its use on their equipment (e.g., network firewall issues, troubleshooting problems)?

14. What other approaches might be considered to select an application or applications for use in the VRS system? For example, should the Commission host a competition among existing VRS access applications and/or commercial standards-based off-the-shelf video conferencing applications? What would be the benefits and drawbacks of these or other alternate approaches?

15. How would a transition to a VRS system that relies exclusively on a common application be accomplished, and over what period of time?

16. What changes in the Commission’s rules would be necessary to adopt this proposal or one of the alternatives described above?

Enhanced iTRS Database Operations

17. CSDVRS also has proposed an industry structure in which all providers of ASL relay CA services would utilize an enhanced version of the TRS numbering directory to provide features such as user registration and validation, call routing, and usage accounting. In effect, this would separate the video communication service component of VRS from the ASL relay CA service component by providing the functions of the former from an enhanced database (“enhanced iTRS database”). The Bureau seeks comment on this proposal, and seek particular comment on the following related questions:

18. What functions and services should the enhanced iTRS database provide? Some possibilities include:

- Development and distribution of VRS access technology, such as a common application
- User registration and validation (account and credential creation)
- Per-call user verification (authentication)
- TRS numbering directory functions
- Usage accounting
- Call routing
 - To the user-chosen default or the per-call ASL relay CA service provider
 - To/from other end users (i.e., point-to-point calls)
 - To/from the PSTN
 - 911 call processing
- Vertical features such as video mail and address book

19. How would ASL relay CA service providers interface with the enhanced iTRS database? Would each ASL relay CA service provider be required to establish its own internal routing system for distributing calls among its call centers, or should the enhanced iTRS database allow providers to specify provider-internal call routing rules?

20. CSDVRS’ proposal appears to contemplate the existence of multiple video communication service providers. Is this necessary? How would the user or application choose among these providers? If the choice of the communication service provider is independent of the ASL relay CA service, based on what criteria or metrics would users or applications make that choice? Given that VRS providers currently compete primarily on quality of CA service, should the Commission contract for a single

provider of the enhanced iTRS database functions, including video communication service, that allows users to access the ASL relay CA service of their choice? If the Commission does choose to contract for these functions, should there be a single contract or multiple contracts?

21. What changes in the Commission's rules would be necessary to implement such a structure?

Rate Proposals

22. As noted above, in the *2010 TRS Rate Order*, the Commission stated it would no longer tolerate the "large discrepancy between actual costs and provider compensation" that had resulted from earlier VRS ratesetting orders. Stressing its "obligation to protect the integrity of the Fund and to deter and detect waste," the Commission also released the 2010 VRS NOI to consider, among other issues, "the most appropriate way to calculate and set future [VRS] rates." Subsequently, in the *2011 VRS FNPRM*, the Commission proposed that, if a per-minute VRS rate was retained, it should be set based on the weighted average of actual per-minute provider costs for the most recently completed fund year. These steps have made clear the Commission's determination to review rate issues as part of its VRS reform proceeding and to obtain VRS rates that better reflect actual expenses of VRS providers.

23. Under § 64.604(c)(5)(iii)(E) and (H) of the Commission's rules, the Fund administrator is required to file the Fund payment formulas and revenue requirements for VRS with the Commission on May 1 of each year, to be effective the following July 1. However, on April 30, 2012, the Bureau waived the Fund administrator's obligation to file proposed rates and revenue requirements for VRS for the 2012–13 Fund year by May 1, 2012. In its order adopting rates for the 2012–13 Fund year, the Bureau indicated that the current interim rates for VRS would remain in place pending the Commission's completion of the current proceeding on reforming the structure and practices in the VRS market. In anticipation of the completion of the VRS reform proceeding, or of the current phase thereof, the Commission requested the Fund administrator, RLSA, to submit proposed VRS rates for the remainder of the 2012–13 Fund year. In document DA 12–1644, the Bureau seeks comment on RLSA's proposed VRS compensation rates, as well as on alternative rate methodologies, for the remainder of the

2012–13 Fund year and subsequent years.

24. The Bureau urges parties that disagree with RLSA's proposed rates to offer specific and detailed alternatives. Further, the Bureau expects parties to focus their comments, to the maximum extent practicable, on publicly available data and to make public the details of their views and arguments, including the specific dollar amounts that they believe the Commission should adopt for specific rates or cost elements.

RLSA's Rate Proposals

25. In the 2012 VRS Rate Filing, RLSA presents a proposal for determining how VRS providers are to be compensated by the Fund. Based on its analysis of the cost and demand data received from providers, the Fund administrator states that VRS providers' weighted average actual per-minute costs were \$3.5740 for 2010 and \$3.1900 for 2011, and that VRS providers' weighted average projected per-minute costs are \$3.4313 for 2012. RLSA proposes that rates be based on an average of these three numbers, with appropriate adjustments to reflect rate tiers. Using this proposed methodology, RLSA proposes that cost based rates be phased in over a multi-year time period, with the rates restructured in two tiers instead of the current three tiers. Based on a three-year phase-in, RLSA proposes that rates be set initially for Tiers I and II (up to 500,000 minutes each month) at \$5.2877 per minute, and for Tier III (over 500,000 minutes each month) at \$4.5099 per minute. RLSA also presents data that reflects several of the categories of compensable and non-compensable costs. The Bureau invites comment on RLSA's proposed rate structure, proposed rates, and cost calculations, including its weighting of individual providers' costs. Commenters who advocate alternative rates to those proposed by RLSA are urged to discuss any resulting changes that will be necessary in the TRS revenue requirement and contribution factor if the rate(s) they advocate are adopted.

Open Ratemaking Issues

26. The Commission's determination regarding VRS compensation for the remainder of the 2012–13 Fund year and subsequent years may be affected by how the Commission resolves various ratemaking issues raised in the *2011 VRS Reform FNPRM*, the *2011 VRS Rate NPRM*, and the *2010 VRS NOI*. Therefore, the Bureau invites commenters to refresh the record of CG Docket Nos. 03–123 and 10–51 on the following issues that may affect the establishment of a VRS rate for the

remainder of the 2012–13 Fund year and subsequent years:

27. Should the following cost categories, which RLSA has included in its calculation of the proposed rates, be allowable as part of the cost basis for rates:

- Marketing (calculated by RLSA as \$0.0504 (2010), \$0.0441 (2011), and 0.0466 (2012) per minute);
- Outreach (calculated by RLSA as \$0.2741 (2010), \$0.2606 (2011), and 0.2594 (2012) per minute); and
- Research and development (calculated by RLSA as \$0.0486 (2010), \$0.0542 (2011), and \$0.0523 (2012) per minute)?

28. Should the Commission continue to limit the kinds and amount of capital costs that are allowed to be recovered? Thus, RLSA's proposed rate would allow an 11.25% return on invested capital, an element which has long been used as the basis for calculating TRS rates, as well as other common carrier rates, and which previously has been found to address adequately the recovery of interest and principal payments on debt, income taxes, and profits. RLSA calculates the weighted-average-per-minute return on investment, with allowance for taxes, to be \$0.0949 per minute in 2010, \$0.0778 per minute in 2011, and \$0.0594 per minute (projected) in 2012. The Bureau invites commenters to refresh the record on the appropriate treatment of capital costs, rate of return, and related issues. Parties that advocate a particular alternative for treatment of capital costs should specify the type of investment on which they believe providers should be authorized to recover a return, the percentage return that they believe is appropriate in light of current market conditions, an estimate of the dollar amount that their proposed capital cost element would add to proposed VRS rates, and the specific reasons why investment and return should be so defined for purposes of Fund-compensated VRS.

29. Should the Commission retain, modify, or eliminate the current tiered VRS rate structure?

30. Should there be a phase-in of the new VRS compensation rate or rates? How long should such a phase-in period last and how should rates be set during such an initial period? For example, should the Commission establish a three-year phase-in period, as RLSA suggests, with equal yearly adjustments to reach the new rate?

31. How long should the new rate remain in effect? In the *2007 TRS Rate Methodology Order*, the Commission determined that VRS and IP Relay compensation rates should be set for a

three-year period, subject to certain adjustments. Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, (*2007 TRS Rate Methodology Order*), CG Docket No. 03–123, published at 73 FR 3197, January 17, 2008. In the *2010 TRS Rate Order*, the Commission again adopted a three-year rate for IP Relay, but it adopted a one-year interim rate for VRS. That

interim VRS rate, however, was extended in 2011 and 2012. Should the new VRS rate likewise be instituted for a three-year period, or a different period?

32. As noted above, parties that disagree with RLSA's proposed cost categories or rate tiers, or have views on the timing and duration of the rate, should offer specific and detailed alternatives and should focus their

comments, to the maximum extent practicable, on data, views, and arguments that can be made publicly available, including the specific dollar amounts and percentages.

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2012–26553 Filed 10–26–12; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 77, No. 209

Monday, October 29, 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 23, 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 and 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), 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 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.

Forest Service

Title: Special Use Administration.
OMB Control Number: 0596-0082.
Summary of Collection: Several statutes authorize the Forest Service (FS) to issue and administer authorizations for use and occupancy of National Forest System (NFS) lands and require the collection of information from the public for those purposes including Title 5 of the Federal Land Policy and Management Act of 1976 (FLPMA, Pub. L. 94-579), the Organic Administration Act of 1897, (16 U.S.C. 551); the National Forest Ski Area Permit Act (16 U.S.C. 497b); section 28 of the Mineral Leasing Act (30 U.S.C. 185); the National Forest Roads and Trails Act (FRTA, 16 U.S.C. 532-538); section 7 of the Granger-Thye Act (16 U.S.C. 480d); the Act of May 20, 2000 (16 U.S.C. 460/-6d); and the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801-6814). Forest Service regulations implementing these authorities, found at Title 36, Code of Federal Regulations, Section 251, Subpart B (36 CFR 251, Subpart B), contain information collection requirements, including submission of applications, execution of forms, and imposition of terms and conditions that entail information collection requirements, such as the requirement to submit annual financial information; to prepare and update an operating plan; to prepare and update a maintenance plan; and to submit compliance reports and information updates.

The Department of the Interior's Bureau of Land Management, U.S. Fish and Wildlife Service, National Park Service, and Bureau of Reclamation along with the U.S. Army Corps of Engineers are authorized under their own various statutes to collect information using the SF-299.

Need and Use of the Information: The information collected is evaluated by the FS and DOI to ensure that authorized uses of NFS lands are in the public interest and are compatible with each Department's agency missions. The information helps each agency identify environmental and social impacts of special uses for purposes of compliance with the National Environmental Policy

Act and program administration. There are six categories of information collected: (1) Information required from proponents and applicants to evaluate proposals and applications to use or occupy NFS lands; (2) information required from applicants to complete special use authorizations; (3) annual financial information required from holders to determine land use fees; (4) information required from holders to prepare and update operating plans; (5) information required from holders to prepare and update maintenance plans; and (6) information required from holders to complete compliance reports and information updates.

Description of Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 155,630.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 331,749.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012-26479 Filed 10-26-12; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 24, 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.

Comments regarding this information collection received by November 28, 2012 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725-17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to:

OIRA_Submission@OMB.EOP.GOV or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Copies of the submission(s) may be obtained by calling (202) 720-8958.

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

Farm Service Agency

Title: Measurement Service Records

OMB Control Number: 0560-0260

Summary of Collection: This collection of information is authorized by 7 CFR Part 718 and described in FSA Handbook 2-CP. If a producer requests measurement services, it becomes necessary for the producer to provide certain information which is collected on the FSA-409 L, Land Measurement Service or 409 B, Commodity Measurement Service. The collection of this information is necessary to fulfill the producer's request for measurement services. Producers may request acreage or production measurement services.

Need and Use of the Information: The Farm Service Agency (FSA) will collect the following information that the producer is required to provide on the FSA-409 L and FSA 409 B: farm serial number, program year, farm location, contact person, and type of service request (acreage or production). The collected information is used to create a record of measurement service requests and cost to the producer.

Description of Respondents: Farms

Number of Respondents: 135,000

Frequency of Responses: Reporting: On occasion; weekly; monthly

Total Burden Hours: 168,750

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012-26542 Filed 10-26-12; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 24, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

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.

Rural Business Service

Title: 7 CFR Part 4287-B, Servicing Business and Industry Guaranteed Loans.

OMB Control Number: 0570-0016.

Summary of Collection: The Business and Industry (B&I) program was legislated in 1972 under Section 310B of the Consolidated Farm and Rural Development Act, as amended (the Act). The purpose of the B&I program, as authorized by the Act, is to improve economic and environmental climate in rural communities, including pollution abatement and control. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans, which will provide lasting community benefits. The B&I program is administered by the Rural Business Service (RBS) through Rural Development State and sub-State offices serving each State. RBS will collect information using various forms from the lender and the borrower. This information is vital for making prudent financial decisions.

Need and Use of the Information: RBS will collect information to monitor the guaranteed loan portfolio to ensure that the lenders are adequately servicing the loans. RBS through its respective Business Programs Divisions in Washington, DC and its 47 State Offices throughout the United States will be the primary users of the information collected. If the information is not collected, RBS would not be able to make prudent credit decisions nor would the Agency be able to effectively monitor the lender's servicing activities and thus minimize losses under the program.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 3,800.

Frequency of Responses: Reporting: On occasion; quarterly; annually.

Total Burden Hours: 20,452.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012-26544 Filed 10-26-12; 8:45 am]

BILLING CODE 3410-XT-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-811]

Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD

Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3874.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 2012, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on solid fertilizer grade ammonium nitrate (ammonium nitrate) from the Russian Federation (Russia) for the period of review (POR) of May 2, 2011, through March 31, 2012.¹ The Department received timely-filed requests from JSC Acron (Acron) and MCC EuroChem (EuroChem) (the respondents) in accordance with 19 CFR 351.213(b), for an administrative review of the antidumping duty order on ammonium nitrate from Russia. On May 29, 2012, the Department published a notice of initiation of an administrative review of the antidumping duty order on ammonium nitrate from Russia for Acron and EuroChem.² On the same date, we: (1) Issued the antidumping questionnaire to these companies; and (2) requested information from U.S. Customs and Border Protection (CBP) on imports of subject merchandise from these respondents during the POR, in accordance with our practice. In June 2012, we received the requested CBP information, which showed that neither Acron nor EuroChem had entries of subject merchandise during the POR. On June 5, 2012, we placed a memorandum on the administrative record of this case stating that our review of the CBP database showed no POR entries of subject merchandise by the respondents.³ We released the results of our CBP data query to the respondents and CF Industries, Inc. and El Dorado Chemical Company (collectively, the petitioners). We received no comments on the CBP data.

On June 20, 2012, Acron submitted its response to section A of the Department's antidumping questionnaire, which indicated that

Acron had a shipment of subject merchandise to the United States in March 2012; however, the entry documentation submitted with this response showed that the entry associated with this shipment was not made until after the end of the POR. See Acron's June 20, 2012, response at Exhibits 1 and 19.

On June 22, 2012, EuroChem submitted a partial response to section A of the Department's antidumping duty questionnaire, which stated that EuroChem also had a shipment of subject merchandise to the United States in March 2012. Unlike Acron, however, EuroChem provided a CBP 7501 form indicating that the entry associated with this shipment occurred on March 26, 2012. See EuroChem's June 22, 2012, submission at Exhibit 2. Because this information was not consistent with the underlying CBP data, on June 25, 2012, we queried the CBP database as to the status of the particular entry in question. According to the CBP database, although EuroChem submitted its entry documentation on March 26, 2012, the entry was not accepted by CBP as entered until after the end of the POR.

Because neither respondent had an entry of subject merchandise into the United States during the POR, on June 28, 2012, the Department placed a memorandum on the record notifying interested parties of its intent to rescind this administrative review.⁴ We invited parties to comment on our Intent to Rescind Memo. On July 9, 2012, we received comments from the respondents, and on July 16, 2012, we received rebuttal comments from the petitioners.

On August 24, 2012, we placed a memorandum on the record regarding EuroChem's entry date, to which EuroChem responded on September 4, 2012.

Rescission of Review

It is the Department's practice to rescind an administrative review pursuant to 19 CFR 351.213(d)(3) when there are no reviewable entries of subject merchandise during the POR subject to the antidumping duty order and for which liquidation is suspended.⁵ At the end of the

administrative review, the suspended entries are liquidated at the assessment rate computed for the review period. See 19 CFR 351.212(b)(1). Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate. As discussed in the Issues and Decision Memorandum (Decision Memo) accompanying this notice, we find that neither respondent made entries of subject merchandise during the POR. Therefore, we are rescinding this review of the antidumping duty order on ammonium nitrate from Russia pursuant to 19 CFR 351.213(d)(3).

Analysis of Comments Received

All issues raised in by parties to this administrative review in their comments are addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues and the corresponding recommendations in this public memorandum, which is on file electronically via IA ACCESS in the Central Records Unit, room 7046, of the main Department of Commerce building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memo are identical in content.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 22, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012-26531 Filed 10-26-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; National Estuarine Research Reserve System Science Collaborative Evaluation

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

From Turkey; Preliminary Results of Antidumping Duty Administrative Review, 67 FR 21634, 21635 (May 1, 2002), unchanged in Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 66110 (Oct. 30, 2002).

¹ See *Ammonium Nitrate from Russia: Correction to Notice of Opportunity to Request Administrative Review*, 77 FR 21527 (Apr. 10, 2012).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 77 FR 31586, 31570 (May 29, 2012).

³ See the June 5, 2012, memorandum from Elizabeth Eastwood, Senior Analyst, to the file, entitled, "2011-2012 Antidumping Duty Administrative Review: Solid Fertilizer Grade Ammonium Nitrate (Ammonium Nitrate) from the Russian Federation (Russia): Data Query Request."

⁴ See the June 28, 2012, memorandum from Holly Phelps, Analyst, to James Maeder, Director, Office 2, entitled, "Intent to Rescind Administrative Review: 2011-2012 Antidumping Duty Administrative Review of Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation" (Intent to Rescind Memo).

⁵ See, e.g., *Certain Frozen Warmwater Shrimp From Brazil: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 32498 (June 1, 2012); and *Certain Steel Concrete Reinforcing Bars*

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 31, 2012 December 28, 2012.

ADDRESSES: Direct all written comments to Sarah Brabson, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at Jjessup@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dwight Trueblood, (603) 862-3580 or Dwight.Trueblood@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Estuarine Research Reserve System (NERRS) Science Collaborative was created in 2009 to put Reserve-based science to work for coastal communities coping with the impacts of land use change, pollution, and habitat degradation in the context of a changing climate. The program operates on the belief that for science to be applied to solve coastal management problems, the people who need to use the science must be involved in its generation.

The projects funded by the NERRS Science Collaborative are designed to bring the intended users of the science into the research process so that their perspectives can inform problem definition, research design and implementation, and ultimately, application of the project results. This is what is meant by "collaboration," and it is the program's goal to use this process to ensure that the good science happening in and around the Reserves gets put to good use.

To help evaluate the efficacy of the NERRS Science Collaborative, NOAA is conducting a survey of the NERRS staff located in the 28 Reserves around the country to solicit their perspective about the program and how it has been implemented.

II. Method of Collection

Respondents will be surveyed electronically and the submission of results will be online. If requested, a

paper copy of the survey will be provided to the survey respondents.

III. Data

OMB Control Number: None.

Form Number: None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Non-profit institutions; State, local, or tribal government.

Estimated Number of Respondents: 140.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 47.

Estimated Total Annual Cost to Public: \$0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 23, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012-26465 Filed 10-26-12; 8:45 am]

BILLING CODE 3510-08-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[0648-XC242]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS, has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The subject EFP would allow a commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before November 13, 2012.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email:* nero.efp@noaa.gov. Include in the subject line "Comments on REDNET EFP."

- *Mail:* John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on REDNET EFP."

- *Fax:* (978) 281-9135.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, 978-675-2153, Brett.Alger@noaa.gov.

SUPPLEMENTARY INFORMATION: The School for Marine Science and Technology, University of Massachusetts, Dartmouth (SMASST), submitted a complete EFP application on September 5, 2012, to conduct a redfish trawl codend selectivity experiment. This is the third of six components for "REDNET: A Network to Redevelop a Sustainable Redfish (*Sebastes fasciatus*) Trawl Fishery in the Gulf of Maine", which is funded by the Northeast Fisheries Science Center's (NEFSC) Cooperative Research Program. The overall objective of REDNET is to develop gear type(s), seasons, and/or area combinations to efficiently harvest the redfish resource in the Gulf of Maine (GOM) to maximize the long-term benefits while minimizing negative impacts, thereby providing a means to achieve the annual catch limit (ACL) for a rebuilt, but largely inaccessible, redfish resource. The REDNET project includes the following components: (1) Network development; (2) baseline catch and bycatch evaluation; (3) codend selectivity; (4) conservation

engineering and bycatch reduction; (5) process and marketing; and (6) outreach and implementation. Components one and two have been completed.

REDNET investigators were issued an EFP in support of component two, which authorized the use of a 4.5-in (11.4-cm) mesh codend to establish a baseline for target catch and bycatch in a targeted redfish fishery (see the Notice and Request for Comments from March 8, 2011 (76 FR 12716)). This EFP, which would be in support of component three of the project, would enable investigators to evaluate different codend mesh sizes in an effort to identify the optimal mesh size to selectively harvest legal-size redfish, as well as perform catch sampling activities. To execute the study, the participating vessel would need to be exempt from the following FMP regulations: NE multispecies minimum fish size for redfish specified at § 648.83(a); and minimum mesh size of 6.5 in (16.6 cm) for multispecies vessels fishing in the GOM specified at § 648.80(a)(3)(i). In addition, vessels would be exempt from the following regulations for all remaining large-mesh and small-mesh groundfish species, for sampling purposes only: Minimum fish size restrictions; fish possession limits; species quota closures; possession of prohibited groundfish species; and gear-specific fish possession restrictions. All non-compliant fish would be discarded as soon as practicable following data collection. No fish below the minimum size would be landed.

Tows would be made using the trouser trawl method which consists of a regular trawl's front end (including sweep, fishing line and headline) and a trouser section, which leads to two separate side-by-side codends. The applicants propose to assess codend selectivity by testing three codend mesh sizes. The test codend would use mesh sizes of either 4.5 in (11.4 cm), 5.5 in (14.0 cm), or 6.5 in (16.6 cm), and the control codend would use mesh sizes 2 in (5.1 cm) to 2.25 in (5.7 cm). The test and control codends would be switched regularly between port and starboard to reduce possible side effects, rather than keeping the test codend on the same side of the vessel for all tows.

The vessel would conduct sea trials from early November 2012 to April 30, 2013, with a total of 18 sea-days (three 6-day trips including steaming time). The vessel expects to make seven tows on each of the 12 actual fishing days. The research activity would occur in the middle of the GOM, outside of closed areas, on known redfish concentrations, in statistical areas 513, 514, 515, 521, and 522. The trawl net would be towed

at typical fishing speed of approximately 3.2 kts, and the duration of each tow would depend primarily on the amount of fish in the net, rather than time. Acoustic gear monitoring devices would be used during trials to measure the performance of the gear and ensure constant geometry of the trawl's front end.

SMAST/Massachusetts Division of Marine Fisheries (DMF) technical staff, students, and/or qualified at-sea monitors contracted by SMAST/DMF would be on board the vessel for each trip and would document all catch and by catch encountered following NE Fishery Observer Program protocols. About 70 to 100 fish per codend per tow would be measured for both redfish and/or other groundfish species. Sampling work would occur during normal fishing operations and the exemptions for this EFP, if authorized, would not be expected to change vessel fishing behavior. Therefore, it is highly unlikely that this EFP would cause any impact to the physical environment/essential fish habitat, non-sampled species, or protected resources. All marine mammal and turtle interactions would be noted and released, and all corals would be noted and samples kept for further identification and assessment. Codend and control catch data would be analyzed using established methods proposed by the International Council for the Exploration of the Seas in their Manual of Methods of Measuring the Selectivity of Towed Fishing Gears.

All catch of stocks allocated to sectors by the vessel would be deducted from the sector's annual catch entitlement for each NE multispecies stock, including redfish. Specifically, NMFS would apply the sector assumed discard rate to fishing trips by the vessel participating under this EFP, whether the recorded discard rates from the experimental fishing are higher or lower than the assumed discard rate of the sector. The participating vessel would be required to comply with all other applicable requirements and restrictions specified at 50 CFR part 648, unless specifically exempted in this EFP.

If approved, the applicants may request minor modifications and extensions to the EFP throughout the course of research. EFP modifications and extensions may be granted without further public notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impacts of the initially approved EFP request.

In accordance with NAO Administrative Order 216-6, a Categorical Exclusion or other

appropriate National Environmental Policy Act document would be completed prior to the issuance of the EFP. Further review and consultation may be necessary before a final determination is made to issue the EFP. After publication of this document in the **Federal Register**, the EFP, if approved, may become effective following the public comment period.

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

Dated: October 24, 2012.

James P. Burgess,

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

[FR Doc. 2012-26548 Filed 10-26-12; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC314

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council's Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BSAI) Groundfish Plan Teams will meet in Seattle, WA.

DATES: The meetings will be held November 13-16, 2012. The meetings will begin at 9 a.m., November 13, and continue through Friday November 16, 2012.

ADDRESSES: The meetings will be held at the Alaska Fisheries Science Center, 7600 Sand Point Way NE., Building 4, Observer Training Room 1055 (GOA Plan Team) and Traynor Room 2076 (BS/AI Plan Team), Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Jane DiCosimo or Diana Stram, North Pacific Fishery Management Council; telephone: (907) 271-2809.

SUPPLEMENTARY INFORMATION: The Plan Teams will compile and review the annual Groundfish Stock Assessment and Fishery Evaluation (SAFE) reports, including the Economic Report, the Ecosystems Consideration Chapter, the stock assessments for BSAI and GOA groundfishes, and recommend final groundfish harvest specifications for 2013/14.

The Agenda is subject to change, and the latest version will be posted at <http://www.alaskafisheries.noaa.gov/npfmc/>.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen, (907) 271-2809, at least 5 working days prior to the meeting date.

Dated: October 24, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012-26485 Filed 10-26-12; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC299

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Habitat and Environmental Protection Advisory Panel (AP) in Charleston, SC.

DATES: The meeting will take place November 14-15, 2012. See

SUPPLEMENTARY INFORMATION for specific dates and times.

ADDRESSES: The meeting will be held at the Doubletree by Hilton Guest Suites, 181 Church Street, Charleston, SC 29401; telephone: (800) 222-8733; fax: (843) 577-2697.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer,

South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; telephone: (843) 571-4366 or toll free: (866) SAFMC-10; fax: (843) 769-4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: Members of the Habitat and Environmental Protection AP will meet from 8:30 a.m. until 4:30 p.m. on November 14, 2012 and from 8:30 a.m. until 12 noon on November 15, 2012. Topics to be addressed at the meeting include: a member workshop on developing the South Atlantic Habitat and Ecosystem Atlas and Digital Dashboard, including the new online Ecospecies System; species research and habitat mapping associated with deepwater marine protected areas; deepwater habitat complexes associated with Coral Habitat Areas of Particular Concern (CHAPC) extension proposals; a review of a draft Memorandum of Understanding (MoU) between Atlantic Councils on deepwater coral ecosystem conservation; a review of other regional partner activities supporting the regional move to ecosystem-based management; and consideration of updates to essential fish habitat policy statements as needed. The AP will provide recommendations to the Council and address other business as needed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: October 24, 2012.

Tracey L. Thompson,

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

[FR Doc. 2012-26484 Filed 10-26-12; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 121022567-2567-01]

Notice To Solicit Applications for the Ocean Exploration Advisory Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Oceanic and Atmospheric Research.

ACTION: Notice.

SUMMARY: The Office of Oceanic and Atmospheric Research publishes this notice to solicit applications and nominations of persons with appropriate education, interest, and/or experience to become a member of the Ocean Exploration Advisory Board. The purpose of the Board is to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters pertaining to ocean exploration including: The identification of priority areas that warrant exploration; the development and enhancement of technologies for exploring the oceans; managing the data and information; and disseminating the results. The Board will also provide advice on the relevance of the program with regard to the NOAA Strategic Plan, the National Ocean Policy Implementation Plan, and other relevant guidance documents.

DATES: Application materials should be sent to the address, email, or fax specified and must be received no later than 5:00 p.m., Eastern Time, on December 28, 2012.

ADDRESSES: Submit resume and application materials to Yvette Jefferson via mail, fax, or email. Mail: NOAA, 1315 East West Highway, SSMC3 Rm. 10315, Silver Spring, MD 20910; Fax: 301-713-1967; Email: Yvette.Jefferson@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Yvette Jefferson, NOAA, 1315 East West Highway, SSMC3 Rm. 10315, Silver Spring, Maryland 20910; Fax: 301-713-1967; Email: Yvette.Jefferson@noaa.gov; Telephone: 301-734-1002.

SUPPLEMENTARY INFORMATION: NOAA's Ocean Exploration Program (OE) is part of the NOAA Office of Ocean Exploration and Research. The mission of OE is to increase the Nation's understanding of the world's largely unknown ocean through interdisciplinary expeditions and projects to investigate unknown and poorly known ocean areas and phenomena. Specific goals include:

(1) Mapping and characterizing physical, chemical, and biological ocean

environments, as well as submerged cultural history;

(2) Investigating ocean dynamics and interactions in new places and at new scales;

(3) Developing new ocean sensors and systems to increase the pace and efficiency of ocean exploration; and

(4) Disseminating information to a broad spectrum of users through formal and informal education and outreach programs.

For more information on the Ocean Exploration Program please visit the Web sites: <http://Oceanexplorer.noaa.gov> and <http://explore.noaa.gov>.

This notice solicits applications for membership on the Ocean Exploration Advisory Board. The purpose of the Ocean Exploration Advisory Board (the Board) is to advise the Under Secretary of Commerce for Oceans and Atmosphere (Under Secretary), who is also the Administrator of the National Oceanic and Atmospheric Administration, on matters pertaining to ocean exploration including: The identification of priority areas that warrant exploration; the development and enhancement of technologies for exploring the oceans; managing the data and information; and disseminating the results. The Board will also provide advice on the relevance of the program with regard to the NOAA Strategic Plan, the National Ocean Policy Implementation Plan, and other relevant guidance documents. Authority to Which the Committee Reports: The Board will report to the Under Secretary, as directed by Section 12005 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*) part of the Omnibus Public Land Management Act of 2009 (33 U.S.C. 3405). The Board shall function solely as an advisory body in accordance with the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App., with the exception of section 14.

Description of Duties: The Board shall:

a. Advise the Under Secretary on all aspects of ocean exploration including areas, features, and phenomena that warrant exploration; and other areas of program operation, including development and enhancement of technologies for exploring the ocean, managing ocean exploration data and information, and disseminating the results to the public, scientists, and educators;

b. Assist the program in the development of a 5-year strategic plan for the fields of ocean, marine, and Great Lakes science, exploration, and discovery, as well as making

recommendations to NOAA on the evolution of the plan based on results and achievements;

c. Annually review the quality and effectiveness of the proposal review process established under Section 12003(a)(4); and

d. Provide other assistance and advice as requested by the Under Secretary.

Points of View: The Board will consist of approximately ten members including a Chair and Co-chair, designated by the Under Secretary in accordance with FACA requirements. Consideration will be given to candidates who are experts in fields relevant to ocean exploration, including ocean scientists, engineers and technical experts, educators, social scientists, and communications experts. Membership will be open to all individuals who have degrees, professional qualifications, scientific credentials, national reputations, international reputations, or relevant experience that will enable them to provide expert advice concerning the Ocean Exploration Program's roles within the context of NOAA's ocean missions and policies. Members will be appointed for 3-year terms, renewable once, and serve at the discretion of the Under Secretary. The Chair and Co-chair will serve 3-year terms renewable once. Initial appointments will include: Four members serving an initial 3-year term, three members serving an initial 4-year term and three members serving an initial 5-year term. All renewals will be 3-year terms. If a member resigns before the end of his or her first term, the vacancy appointment shall be for the remainder of the unexpired term, and shall be renewable twice if the unexpired term is less than one year.

Members will be appointed as special government employees (SGEs) and will be subject to the ethical standards applicable to SGEs. Members are reimbursed for actual and reasonable expenses incurred in performing such duties but will not be reimbursed for their time.

As a Federal Advisory Committee the Board's membership is required to be balanced in terms of viewpoints represented and the functions to be performed as well as including the interests of geographic regions of the country and the diverse sectors of our society.

The Board will meet two times each year, exclusive of subcommittee, task force, and working group meetings.

Nominations: Nominations must provide: (1) The nominee's full name, title, institutional affiliation, and contact information; (2) the nominee's area(s) of expertise; and (3) a short

description of his/her qualifications relative to the kinds of advice being solicited. Inclusion of a (maximum length 4 pages) resume or curriculum vitae is recommended, but not required.

Applications: An application is required to be considered for Board membership. To apply, submit a current resume (maximum length 4 pages) as indicated in the **ADDRESSES** section that includes: (1) The applicant's full name, title, institutional affiliation, and contact information (mailing address, email, telephones, fax); (2) the nominee's area(s) of expertise; and (3) a short description of his/her qualifications relative to the kinds of advice being solicited. A cover letter stating their interest in serving on the Board and highlighting specific areas of expertise relevant to the purpose of the Board is required.

Dated: October 23, 2012.

Jason Donaldson,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2012-26512 Filed 10-26-12; 8:45 am]

BILLING CODE 3510-KA-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), 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 the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 28, 2012.

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

- **Email:**

InformationCollection@uspto.gov.

Include "0651-0024 comment" in the subject line of the message.

- **Mail:** Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

- **Federal Rulemaking Portal:** <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by email to Raul.Tamayo@uspto.gov. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review." **SUPPLEMENTARY INFORMATION:**

I. Abstract

Patent applications that contain nucleotide and/or amino acid sequence disclosures must include a copy of the sequence listing in accordance with the requirements in 37 CFR 1.821-1.825. The rules of practice require applicants to submit these sequence listings in a standard international format that is consistent with World Intellectual Property Organization (WIPO) Standard ST.25 (1998). Applicants may submit sequence listings for both U.S. and international patent applications.

The USPTO uses the sequence listings during the examination process to determine the patentability of the associated patent application. Sequence listings are also disclosed as part of the published patent application or issued patent. Sequence listings that are extremely long (files larger than 600K or approximately 300 printed pages) are published only in electronic form and are available to the public on the USPTO sequence data Web page (<http://seqdata.uspto.gov>) as an ASCII text file.

The sequence listing required by 37 CFR 1.821(c) for U.S. patent applications may be submitted on paper, compact disc (CD), or through EFS-Web, the USPTO's online filing system. Sequence listings for international applications may be

submitted on paper or through EFS-Web only, though sequence listings that are too large to be filed electronically through EFS-Web may be submitted on a separate CD. Applicants may use EFS-Web to file a sequence listing online with a patent application or subsequent to a previously filed application.

Under 37 CFR 1.821(e)-(f), applicants must also submit a copy of the sequence listing in "computer readable form" (CRF) with a statement indicating that the CRF copy of the sequence listing is identical to the paper or CD copy required by 1.821(c). Applicants may submit the CRF copy of the sequence listing to the USPTO on CD or other acceptable media as provided in 37 CFR 1.824. Sequence listings that are submitted online through EFS-Web in the proper text format do not require a separate CRF copy or the associated statement.

If the CRF sequence listing in a new application is identical to the CRF sequence listing of another application that the applicant already has on file at the USPTO, 37 CFR 1.821(e) permits the applicant to refer to the CRF listing in the other application rather than having to submit a duplicate copy of the CRF listing for the new application. In such a case, the applicant may submit a letter identifying the application and CRF sequence listing that is already on file and stating that the sequence listing submitted in the new application is identical to the CRF copy already filed with the previous application. The USPTO provides a form, Request for Transfer of a Computer Readable Form Under 37 CFR 1.821(e) (PTO/SB/93), in order to assist customers in submitting this statement.

This information collection contains the sequence listings that are submitted with biotechnology patent applications. Information pertaining to the filing of the initial patent application itself is

collected under OMB Control Number 0651-0032, and international applications submitted under the Patent Cooperation Treaty (PCT) are covered under OMB Control Number 0651-0021.

II. Method of Collection

By mail, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651-0024.

Form Number(s): PTO/SB/93.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 25,250 responses per year. The USPTO estimates that approximately 27% of these responses will be from small entities.

Estimated Time per Response: The USPTO estimates that it will take the public approximately six minutes (0.10 hours) to six hours (6.0 hours) to gather the necessary information, prepare the form or sequence listing, and submit it to the USPTO.

Estimated Total Annual Respondent Burden Hours: 138,225 hours.

Estimated Total Annual Respondent Cost Burden: \$22,590,450. The USPTO estimates that a sequence listing will take approximately five hours of paraprofessional time at an estimated rate of \$122 per hour and one hour of attorney time at \$371 per hour, for a weighted average rate of \$163.50 per hour for preparing a sequence listing. The USPTO expects that the Request for Transfer of a CRF will be prepared by a paraprofessional at an estimated rate of \$122 per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately \$22,590,450 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Sequence Listing in Application (paper)	6 hours	8,500	51,000
Sequence Listing in Application (CD)	6 hours	500	3,000
Electronic Sequence Listing in Application (EFS-Web)	6 hours	14,000	84,000
Request for Transfer of a Computer Readable Form Under 37 CFR 1.821(e) (PTO/SB/93)	6 minutes	2,250	225
Totals .....	.....	25,250	138,225

Estimated Total Annual Non-hour Respondent Cost Burden: \$2,542,350. This collection has annual (non-hour) costs in the form of fees and postage costs. The USPTO provides free software for creating and validating the

format of sequence listings prior to submission.

In accordance with 35 U.S.C. 41(a)(1)(G), the USPTO only charges a fee for submitting a sequence listing as part of a U.S. application or as part of

an international application entering the U.S. national stage if the sequence listing (i) is not filed via EFS-Web or not filed on an electronic medium in compliance with §§ 1.52(e) and 1.821(c) or (e), and (ii) causes the application to

exceed 100 pages. (See 37 CFR 1.52(f).) Under 37 CFR 1.16(s) and 1.492(j) for U.S. applications and international applications entering the U.S. national stage, respectively, if the application, including the sequence listings filed on paper or on a non-compliant electronic medium, exceeds 100 pages, the application size fee is \$320 (or \$160 for small entities) for each additional 50 pages or fraction thereof. The USPTO estimates that approximately 250 applications from large entities with long sequence listings filed on paper or on a non-compliant electronic medium will incur an average application size fee of \$960, and approximately 200 applications from small entities with long sequence listings filed on paper or on a non-compliant electronic medium will incur an average application size fee of \$480, for a total of \$336,000 per year.

As a Receiving Office, the USPTO collects the international filing fee for each international application it receives. The basic international filing fee only covers the first 30 pages of the international application. As a result, a \$16 fee per page is added to the international filing fee for each page over 30 pages of an international application including a sequence listing filed on paper or in PDF format. No page fees are triggered by sequence listings that are submitted via EFS-Web in the proper text format. The average length of a sequence listing filed on paper or in PDF format in an international application is 150 pages, which would carry an additional fee of \$2,400 if the international application were already at least 30 pages long without the listing. The USPTO estimates that approximately 900 of the 8,500 sequence listings filed per year on paper or in PDF format will be for international applications, for a total of \$2,160,000 per year in page fees. Therefore, this collection has a total of \$2,496,000 in fees per year.

Customers may incur postage costs when submitting a sequence listing to the USPTO by mail. Mailed submissions may include the sequence listing on either paper or CD, the CRF copy of the listing on CD, and a transmittal letter containing the required identifying information. The USPTO estimates that the average postage cost for a paper or CD sequence listing submission will be \$5.15 and that 9,000 sequence listings will be mailed to the USPTO per year, for a total postage cost of \$46,350 per year.

The total annual (non-hour) respondent cost burden for this collection in the form of fees and

postage costs is estimated to be \$2,542,350 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 24, 2012.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2012-26471 Filed 10-26-12; 8:45 am]

BILLING CODE 3510-16-P

COMMODITY FUTURES TRADING COMMISSION

Meeting of Global Markets Advisory Committee

AGENCY: Commodity Futures Trading Commission ("CFTC").

ACTION: Notice.

SUMMARY: The CFTC announces a meeting of its Global Markets Advisory Committee ("GMAC").

DATES: The meeting will be held on November 7, 2012, from 9:30 a.m. to 4:30 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by October 31, 2012.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Written statements should be submitted to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, attention: Office of the Secretary. Please use the title "Global Markets Advisory Committee" in any written statement you may submit. Any statements submitted in connection with the committee meeting will be made available to the public.

FOR FURTHER INFORMATION CONTACT: Kevin Batteh, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418-5636.

SUPPLEMENTARY INFORMATION: This meeting is being held with less than fifteen days notice so that the Committee may obtain the important views of international regulators, futures industry professionals, and market participants on cross-border issues related to OTC derivatives reform implementation. There will be two panels: the first comprised of regulators from around the globe and the second comprised of the GMAC members.

The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public who wish to listen to the meeting by telephone may do so by calling a toll-free telephone line to contact to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name and affiliation. Additionally, a video recording of the meeting will be published through a link on the CFTC's Web site. The call-in information, along with any conference and/or access codes for callers outside of the US will be posted on the CFTC Web site prior to the meeting. Domestic callers can dial 866-844-9416 and use the conference pass code "CFTC." All written submissions provided to the CFTC in any form will also be published on the Web site of the CFTC.

Authority: 5 U.S.C. app. 2 § 10(a)(2).

Dated: October 24, 2012.

By the Commodity Futures Trading Commission.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2012-26533 Filed 10-26-12; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2012-OS-0132]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Office of the Secretary of Defense is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on November 29, 2012 unless comments are received which result in a contrary determination. Comments will be accepted on or before November 28, 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, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350-3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301-1155, or by phone at (571) 372-0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The Department of the Army proposes to amend one system in records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: October 24, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS E04

SYSTEM NAME:

Privacy Act Case Files (December 8, 2010, 75 FR 76423).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Washington Headquarters Services (WHS) records: Freedom of Information Division, Executive Services Directorate, Washington Headquarters Services, 4800 Mark Center Drive, Suite 02F09-02, Alexandria, VA 22350-3100.

DoD Education Activity (DoDEA) records: Department of Defense Education Activity, Privacy Act Office, Executive Services Office, Office of the Chief of Staff, 4800 Mark Center Drive, Suite 06D08-03, Alexandria, VA 22350-1400.

Assistant Secretary of Defense (Health Affairs)/TRICARE Management Activity (HA/TMA) and Uniformed Services University of Health Sciences (USUHS): TRICARE Management Activity, ATTN: Freedom of Information Act Requester Service Center, 16401 East Centretech Parkway, Aurora, CO 80011-9066."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "WHS records: Chief, OSD/JS Privacy Office, Office of Freedom of Information, Executive Services Directorate, Washington Headquarters Services, 4800 Mark Center Drive, Suite 02F09-02, Alexandria, VA 22350-3100.

DoDEA records: Chief, Department of Defense Education Activity, Privacy Office, Executive Services Office, Office of the Chief of Staff, 4800 Mark Center Drive, Suite 06D08-03, Alexandria, VA 22350-1400.

HA/TMA records: TRICARE Management Activity, Department of Defense, ATTN: TMA Privacy Officer, 16401 East Centretech Parkway, Aurora, CO 80011-9066."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to:

WHS records: Chief, OSD/JS Privacy Office, Office of Freedom of Information, Executive Services Directorate, Washington Headquarters Services, 4800 Mark Center Drive, Suite 02F09-02, Alexandria, VA 22350-3100.

Written requests should include the individual's name.

DoDEA records: Chief, Department of Defense Education Activity, Privacy Act Office, Executive Services Office, Office of the Chief of Staff, 4800 Mark Center Drive, Suite 06D08-03, Alexandria, VA 22350-1400.

Written requests must include this system of records notice name and

number, be in writing, signed, and for verification purposes provide evidence of the requester's identity such as a copy of a photo ID or passport or similar document bearing the requesters signature.

HA/TMA records: TRICARE Management Activity, Department of Defense, ATTN: TMA Privacy Officer, 16401 East Centretech Parkway, Aurora, CO 80011-9044.

Written requests should include the individual's name, mailing address and signature."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access their record should address written inquiries to:

WHS records: OSD/JS Freedom of Information Requester Service Center, Office of Freedom of Information, Executive Services Directorate, Washington, Headquarters Services, 4800 Mark Center Drive, Suite 02F09-02, Alexandria, VA 22350-3100.

DoDEA records: Department of Defense Education Activity, Privacy Act Office, Executive Services Office, Office of the Chief of Staff, 4800 Mark Center Drive, Suite 06D08-03, Alexandria, VA 22350-1400.

HA/TMA records: TRICARE Management Activity, ATTN: Freedom of Information Act Requester Service Center, 16401 East Centretech Parkway, Aurora, CO 80011-9066.

Requests for access must include this system of records notice name and number, be in writing, signed, and for verification purposes provide evidence of the requester's identity such as a copy of a photo ID or passport or similar document bearing the requesters signature.

Additionally for DoDEA records: If a parent or legal guardian is requesting records pertaining to his or her minor child or ward, he/she must also provide evidence of that relationship. The parent may provide one of the following: A copy of the child's school enrollment form signed by the parent, a copy of a divorce decree or travel order that includes the child's name, an order of guardianship, or a declaration stating that he/she is the parent or legal guardian of the minor or incapacitated child."

* * * * *

[FR Doc. 2012-26476 Filed 10-26-12; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION**[Docket No. ED-2012-ICCD-0045]****Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Evaluation of Teacher and Leader Evaluation Systems****AGENCY:** Department of Education (ED), Institute of Education Sciences (IES).**ACTION:** Notice.**SUMMARY:** In accordance with the Paperwork Reduction of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision to an existing information collection.**DATES:** Interested persons are invited to submit comments on or before November 28, 2012.**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting Docket ID number ED-2012-ICCD-0045 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202-4537.**FOR FURTHER INFORMATION CONTACT:** Electronically mail ICDocketMgr@ed.gov. Please do not send comments here.**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how

might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Impact Evaluation of Teacher and Leader Evaluation Systems.*OMB Control Number:* 1850-0890.*Type of Review:* Revision.*Respondents/Affected Public:* Individuals or households; State, Local, or Tribal Governments.*Total Estimated Number of Annual Responses:* 5,335.*Total Estimated Number of Annual Burden Hours:* 4,265.*Abstract:* This package requests clearance to collect data from districts, teachers, and principals for a study of a performance evaluation system for principals and teachers. The study will provide important implementation and impact information on a package of performance evaluation system components that reflects current federal policy. Study findings will be presented in two reports, one scheduled for release in Spring 2015 and the other in Summer 2016.

Dated: October 23, 2012.

Darrin A. King,*Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2012-26519 Filed 10-26-12; 8:45 am]

BILLING CODE 4000-01-P**DEPARTMENT OF EDUCATION****[Docket No.: ED-2012-ICCD-0046]****Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Fast Response Survey System (FRSS) 105: Condition of Public School Facilities****AGENCY:** Department of Education (ED), Institute of Education Sciences (IES).**ACTION:** Notice.**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new FRSS generic clearance.**DATES:** Interested persons are invited to submit comments on or before November 28, 2012.**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting

Docket ID number ED-2012-ICCD-0046 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E117, Washington, DC 20202-4537.

FOR FURTHER INFORMATION CONTACT:Electronically mail ICDocketMgr@ed.gov. Please do not send comments here.**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.*Title of Collection:* Fast Response Survey System (FRSS) 105: Condition of Public School Facilities.*OMB Control Number:* 1850-0733.*Type of Review:* Generic information collection.*Respondents/Affected Public:* State, Local, or Tribal Governments.*Total Estimated Number of Annual Responses:* 4,308.*Total Estimated Number of Annual Burden Hours:* 1,052.*Abstract:* The National Center for Education Statistics (NCES), U.S. Department of Education (ED), requests

OMB approval under the NCES system clearance for the Quick Response Information System (QRIS) (OMB #1850-0733) to conduct data collection for the Fast Response Survey System (FRSS) survey #105 on the condition of public school facilities. Congress has appropriated funds for NCES to conduct an FRSS survey on the condition of public school facilities, with a First Look report on the results to be released in late 2013. FRSS previously conducted a survey on this topic in 1999. The 2012-13 FRSS survey will cover many of the same topics as the 1999 survey, but will use a revised questionnaire. The current survey reflects lessons learned from the 1999 survey, topics and issues identified through literature review, with modifications based on two rounds of feasibility calls and two rounds of pretest calls (OMB# 1850-0803) with public school district personnel most knowledgeable about school facilities. As was done in 1999, schools will be sampled, but surveys will be sent to districts, where facilities personnel and records are located. Changes to questionnaires were made based on the feedback received from pretests. A revised questionnaire is being submitted with this request for OMB clearance.

Dated: October 23, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012-26520 Filed 10-26-12; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Hydrogen and Fuel Cell Technical Advisory Committee (HTAC)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: The Hydrogen and Fuel Cell Technical Advisory Committee (HTAC) was established under section 807 of the Energy Policy Act of 2005 (EPACT), Public Law 109-58; 119 Stat. 849. The Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, requires that agencies publish notice of an advisory committee meeting in the **Federal Register**. To attend the meeting and/or to make oral statements during the public comment period, please register no later than 5:00 p.m. on Tuesday, November 6, 2012 by email at:

HTAC@nrel.gov. An early confirmation of attendance will help to facilitate access to the building more quickly. Entry to the building will be restricted to those who have confirmed their attendance in advance. Please provide your name, organization, citizenship, and contact information, and indicate whether you want to make an oral statement. Anyone attending the meeting will be required to present government issued identification.

DATES: Thursday, November 15, 2012, 9:00 a.m.–6:00 p.m. Friday, November 16, 2012, 9:00 a.m.–12:30 p.m.

ADDRESSES: National Renewable Energy Laboratory (NREL); 901 D Street SW., Suite 930; Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: *HTAC@nrel.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice, information, and recommendations to the Secretary on the program authorized by Title VIII of EPACT.

Tentative Agenda: (updates will be posted on the web at: *http://hydrogen.energy.gov*).

- Public Comment
- DOE Program Updates
- Congressional Fuel Cell Caucuses
- NREL Reports on Hydrogen in Natural Gas Pipelines and Infrastructure Cost
- Natural Gas Drilling and Availability
- Future Transportation Fuels Study
- Northeast Initiative Update
- Overview of Hydrogen Analysis at University of California, Davis
- Department of Defense Hydrogen and Fuel Cells Update

Public Participation: The meeting is open to the public. Individuals who would like to attend must register no later than 5:00 p.m. on Tuesday, November 6, 2012, by email at: *HTAC@nrel.gov*. An early confirmation of attendance will help to facilitate access to the building more quickly. Entry to the building will be restricted to those who have confirmed their attendance in advance. Please provide your name, organization, citizenship, and contact information. Anyone attending the meeting will be required to present government-issued identification. Those wishing to make a public comment are required to register. The public comment period will take place between 9:00 a.m. and 9:30 a.m. on November 15, 2012. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. Those not able to attend the meeting or have insufficient time to address the committee are invited to

send a written statement by email to: *HTAC@nrel.gov*.

Minutes: The minutes of the meeting will be available for public review at the following Web site: *http://hydrogen.energy.gov*.

Issued at Washington, DC, on October 23, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012-26516 Filed 10-26-12; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13-6-000]

Eastern Shore Natural Gas Company; Notice of Application

Take notice that on October 12, 2012, Eastern Shore Natural Gas Company (Eastern Shore), 1110 Forrest Avenue, Dover, Delaware 19904, filed in the above referenced docket an application pursuant to section 7 of the Natural Gas Act (NGA) for authorization to construct and operate certain new compression facilities within existing property at Eastern Shore's Daleville Compression Station in Chester County, Pennsylvania. Eastern Shore states that the proposed project will provide 17,500 dekatherms per day of firm capacity to two existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Any questions concerning this application may be directed to William B. Zipf, Vice-President, Eastern Shore Natural Gas Company, 1110 Forrest Avenue, Suite 201, Dover, Delaware 19904, by telephone at (302) 736-7624, by facsimile at (302) 734-6745, or by email at *wzipf@esng.com*.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal

Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy

regulatory Commission, 888 First Street NE., Washington, DC 20426.

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: November 13, 2012.

Dated: October 22, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-26441 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13-7-000]

Energy Corporation of America; Eastern American Energy Corporation; First ECA Midstream LLC; Notice of Application

Take notice that on October 16, 2012, Energy Corporation of America and Eastern American Energy Corporation (collectively, ECA), and First ECA Midstream LLC (First ECA Midstream), 501 56th Street SE., Charleston, West Virginia 25304, jointly filed in Docket No. CP13-2-000, an application requesting: (1) Authorization, pursuant to section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, to abandon the limited jurisdiction certificate issued to ECA on March 25, 2004 in Docket No. CP03-355-000; and (2) issuance, pursuant to section 7(c) of the NGA and Part 157 of the Commission's regulations, of a limited jurisdiction certificate to First ECA Midstream to allow it to continue operating certain gathering facilities located in West Virginia acquired by First ECA Midstream from ECA (Line 8000 System) in the same manner as ECA has operated the facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The applicants explain that First ECA Midstream has acquired the Line 8000 System from ECA. ECA's limited jurisdiction certificate allowed gas volumes to be received into the Line 8000 System from Columbia Gas

Transmission, LLC (Columbia) in order to provide service to the extent local production gathered by the system became insufficient to meet customers' needs. The applicants state that First ECA, as the new owner and operator of the Line 8000 System, requires a limited jurisdiction certificate for the same purpose, and they request an order on or before December 1, 2012 to enable First ECA Midstream to receive gas from Columbia if necessary during the winter season.

Any questions regarding this application should be directed to: Donald C. Supcoe, Energy Corporation of America, 501 56th Street SE., Charleston, WV 25304, or phone (304) 925-6100, or email DSupcoe@energycorporationofamerica.com; and Randall S. Rich, Pierce Atwood LLP, 900 17th Street NW., Suite 350, Washington, DC 20006, or phone (202) 470-6424, or email rrich@pierceatwood.com.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit an original and 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 7 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: November 2, 2012.

Dated: October 19, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-26444 Filed 10-26-12; 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: RP13-172-000.

Applicants: Questar Southern Trails Pipeline Company.

Description: Section 35 Segmentation of Capacity to be effective 12/1/2012.

Filed Date: 10/22/12.

Accession Number: 20121022-5139.

Comments Due: 5 p.m. ET 11/5/12.

Docket Numbers: RP13-173-000.

Applicants: Central New York Oil And Gas, L.L.C.

Description: 10-22 Amended MARC I Non-Conforming FTSA's (Revised Exhibit As) to be effective 12/31/9998.

Filed Date: 10/23/12.

Accession Number: 20121023-5001.

Comments Due: 5 p.m. ET 11/5/12.

Docket Numbers: RP13-174-000.

Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC Request for Extension of Time to File Semi-Annual Operational Transactions Rate Adjustment Filing.

Filed Date: 10/22/12.

Accession Number: 20121022-5179.

Comments Due: 5 p.m. ET 10/29/12.

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: RP12-318-004.

Applicants: Texas Eastern Transmission, LP.

Description: Reservation Charge Credit Compliance Filing to be effective 12/31/9998.

Filed Date: 10/22/12.

Accession Number: 20121022-5162.

Comments Due: 5 p.m. ET 11/5/12.

Any person desiring to protest in any of 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 23, 2012.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2012-26525 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL13-12-000]

Dominion Resources Services, Inc. v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on October 19, 2012, pursuant to section 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2012) and sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e) (2011), Dominion Resources Services, Inc. (Complainant) filed a formal complaint against PJM Interconnection,

L.L.C. (Respondent), alleging that the Respondent failed to properly allocate certain charges for Day-Ahead Operating Reserves in a just and reasonable manner. As more fully described in the complaint, the Complainant seeks a refund for all over-charges resulting from this allocation. In addition, the Complainant requests that the Commission order the Respondent to amend its tariff provisions related to cost allocation for Operating Reserves charges. The Complainant represents in the complaint that the Respondent agrees to submit its answer on or before November 2, 2012.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 p.m. Eastern Time on November 2, 2012.

Dated: October 22, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-26443 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL13-11-000; RD13-1-000]

Tri-State Generation and Transmission Association, Inc. v. Western Electric Coordinating Council and North American Electric Reliability Corporation; Notice of Complaint

Take notice that on October 18, 2012, pursuant to sections 215(d)(6) and 206 of the Federal Power Act, 16 USC 824o(d)(6) and 824e (2010), section 39.6 of the Federal Energy Regulatory Commission's (Commission) regulations 18 CFR 39.6 (2011) and rule 206 of Commission's Rules of Practice and Procedure, 18 CFR 385.206 (2011), Tri-State Generation and Transmission Association, Inc. (Complainants) filed a complaint and petition requesting resolution of the conflict between Western Electric Coordinating Council and North American Electric Reliability Corporation's (Respondent) implementation of Regional Reliability Standard IRO-006-WECC-1 and the transmission curtailment priorities specified in the Commission's *pro forma* Open Access Transmission Tariff.

The Complainant stated that copies of the complaint and petition have been served on the Respondents as listed on the Certificate of Service appended to the complaint and petition.

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: 5:00 p.m. Eastern Time on November 8, 2012.

Dated: October 22, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-26442 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4815-009]

Mr. Jesse S. Capel and Mr. Hilton J. Cochran; EWP LLC; Notice of Transfer of Exemption

1. By application filed on July 30, 2012 and supplemented on August 14, 2012, Mr. Jesse S. Capel and Mr. Hilton J. Cochran and EWP LLC informed the Commission that its exemption from licensing for the Eury Dam Project No. 4815, originally issued February 7, 1983,¹ and transferred to EWP LLC by application.² The project is located on the Little River in Montgomery County, North Carolina. The transfer of an exemption does not require Commission approval.

2. EWP LLC, Mr. J. Scott Hale, located at 125 S. Elm Street, Suite 400, Greensboro, NC 27401 is now the exemptee of the Eury Dam Project No. 4815.

Dated: October 18, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-26440 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

¹ 22 FERC ¶ 62,158, Order Granting Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less.

² Notice for Transfer of Exemption to Project 4815, filed July 30, 2012 and supplemented on August 14, 2012.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF11-7-001]

Western Area Power Administration; Notice of Filing

Take notice that on August 13, 2012, Western Area Power Administration submitted its revised version of its Western Rate Schedules, to be effective October 1, 2012.

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: 5:00 p.m. Eastern Time on November 9, 2012.

Dated: October 19, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-26429 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. EF11-7-000]

**Western Area Power Administration;
Notice of Filing**

Take notice that on July 14, 2011, Western Area Power Administration submitted its revised version of its Tariff Title for the Western Rate Schedules database, to be effective July 14, 2011.

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: 5:00 p.m. Eastern Time on November 9, 2012.

Dated: October 19, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-26445 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. CP13-2-000]

**Sabine Pass Liquefaction, LLC; Sabine
Pass LNG, L.P.; Notice of Petition To
Amend Authorizations Under Section 3
of the Natural Gas Act**

Take notice that on October 9, 2012, Sabine Pass Liquefaction, LLC and Sabine Pass LNG, L.P. (collectively, Sabine Pass), 700 Milam Street, Suite 800, Houston, Texas 77002, filed in Docket No. CP13-2-000, an application, pursuant to section 3(a) of the Natural Gas Act (NGA) and Parts 153 and 380 of the Commission's Regulations, to amend the authorizations granted on April 16, 2012 in Docket No. CP11-72-000 (Liquefaction Project) in order to construct and operate certain related facilities (Modification Project) at the existing Sabine Pass LNG Terminal, located in Cameron Parish, Louisiana. Sabine Pass states that the Modification Project is required to enhance the operation and reliability, as well as facilitate the construction, of the Sabine Pass Liquefaction Project, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any questions regarding this application should be directed to Patricia Outtrim, V.P. Government Affairs, Cheniere Energy, Inc., 700 Milam Street, Suite 800, Houston, Texas 77002, or call (713) 375-5212, or by email pat.outtrim@cheniere.com. Or contact Lisa M. Tonery, Fulbright & Jaworski L.L.P., 666 Fifth Avenue, New York, NY 10103, or call (212) 318-3009, or by email ltonery@fulbright.com.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of

the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit an original and 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentators will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentators will not be required to serve copies of filed documents on all other parties. However, the non-party commentators will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 7 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: November 8, 2012.

Dated: October 18, 2012.

Kimberly D. Bose,
Secretary.

[FR Doc. 2012-26438 Filed 10-26-12; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9747-6]

Farm, Ranch, and Rural Communities Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of cancellation of teleconference.

SUMMARY: EPA announced in the **Federal Register** on October 3, 2012 [FRL-9737-3] a Farm, Ranch, and Rural Communities Committee (FRRCC) Teleconference to be held on October 22, 2012. Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of cancellation of that public meeting for the Farm, Ranch, and Rural Communities Committee (FRRCC). The FRRCC provides policy advice, information, and recommendations to the EPA Administrator on a range of environmental issues and policies that are of importance to agriculture and rural communities. The purpose of this teleconference was to discuss specific topics of relevance for consideration by the Committee in order to provide advice and insights to the Agency on environmental policies and programs that affect and engage agriculture and rural communities.

FOR FURTHER INFORMATION CONTACT:

Alicia Kaiser, Designated Federal Officer, kaiser.alicia@epa.gov, 202-564-7273, U.S. EPA, Office of the Administrator (1101A), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Dated: October 17, 2012.

Alicia Kaiser,
Designated Federal Officer.

[FR Doc. 2012-26527 Filed 10-26-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9747-5]

Reissuance of the NPDES General Permits for Oil and Gas Exploration Facilities on the Outer Continental Shelf and Contiguous State Waters in the Beaufort Sea and on the Outer Continental Shelf in the Chukchi Sea, AK

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of final NPDES general permits.

SUMMARY: The Director, Office of Water and Watersheds, EPA Region 10, is publishing this notice of availability of the final National Pollutant Discharge Elimination System (NPDES) General Permits for Oil and Gas Exploration Facilities on the Outer Continental Shelf and Contiguous State Waters in the Beaufort Sea (Permit No. AKG282100) and on the Outer Continental Shelf in the Chukchi Sea (Permit No. AKG288100). The Beaufort and Chukchi general permits authorize thirteen types of discharges from facilities engaged in field exploration and exploratory drilling activities under the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 425, Subpart A), as authorized by Section 402 of the Clean Water Act (CWA or “the Act”), 33 U.S.C. 1342. The Beaufort and Chukchi general permits contain effluent limitations and requirements that ensure the discharges will not cause unreasonable degradation of the marine environment, as required by Section 403(c) of the Clean Water Act (i.e. the Ocean Discharge Criteria), 33 U.S.C. 1343(c).

DATES: The issuance date of the Beaufort and Chukchi NPDES general permits is October 29, 2012, the date of publication of this notice. The Beaufort and Chukchi general permits shall become effective on November 28, 2012. Operators must submit a new Notice of Intent (NOI) to discharge within 120

days prior to initiation of discharges. Operators that have administratively extended coverage under the previous general permit must submit new NOIs that comply with the submission requirements of the Beaufort and Chukchi general permits.

ADDRESSES: Copies of the Beaufort and Chukchi general permits, the Response to Comments document, and the Ocean Discharge Criteria Evaluations may be found on the Region 10 Web site at: <http://yosemite.epa.gov/r10/water.nsf/npdes+public+notices/arctic-gp-pn-2012>. Copies of the documents are available upon request. Written requests for copies of the documents may be submitted to EPA, Region 10, 1200 Sixth Avenue, Suite 900, OWW-130, Seattle, WA 98101. Electronic requests may be sent to: washington.audrey@epa.gov. Requests by telephone may be made to Audrey Washington at (206) 553-0523.

FOR FURTHER INFORMATION CONTACT: Erin Seyfried at (206) 553-1448, seyfried.erin@epa.gov.

SUPPLEMENTARY INFORMATION: On June 26, 2011, the previous NPDES general permit, the Arctic general permit, No. AKG280000, expired. EPA is replacing the Arctic general permit with two general permits, the Beaufort and Chukchi general permits, renumbered as AKG282100 and AKG288100, respectively. EPA solicited public comments on the draft Beaufort and Chukchi general permits in the **Federal Register** on January 31, 2012. Notices of the draft general permits were also published in the Anchorage Daily News, the Arctic Sounder, and Petroleum News on January 30, 2012. Public meetings and hearings were held in communities on the North Slope and in Anchorage the week of March 12-16, 2012. The comment period closed on March 30, 2012. Changes have been made to the general permits in response to comments received from tribal, state, and local governments, the Alaska Eskimo Whaling Commission, environmental advocacy groups, industry representatives, trade organizations, and individual citizens. All comments, along with EPA’s responses, are summarized in the Response to Comments document.

State Certification of Beaufort General Permit. Pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341, on October 9, 2012, the State of Alaska Department of Environmental Conservation (DEC) certified that the conditions of the Beaufort general permit comply with State Water Quality Standards (Alaska Administrative Code 18 AAC 15, 18 AAC 70, and 18 AAC

72), including the State's antidegradation policy.

Oil Spill Requirements. Section 311 of the Act, 33 U.S.C. 1321, prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges authorized under the Beaufort and Chukchi general permits are excluded from the provisions of CWA Section 311, 33 U.S.C. 1321. However, the Beaufort and Chukchi general permits will not preclude the institution of legal action, or relieve the permittees from any responsibilities, liabilities, or penalties for other unauthorized discharges of oil and hazardous materials, which are covered by Section 311.

Endangered Species Act. Section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1531–1544, requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species, or designated critical habitat. On March 30, 2012 and April 11, 2012, EPA received concurrences from USFWS and NMFS, respectively, that exploration discharges authorized by the general permits are not likely to adversely affect endangered, threatened, and candidate and proposed species and designated critical habitat areas.

Essential Fish Habitat. The Magnuson-Stevens Fishery Conservation and Management Act requires EPA to consult with NMFS when a proposed discharge has the potential to adversely affect an Essential Fish Habitat (EFH). EPA's EFH assessments conclude that the discharges authorized by the Beaufort and Chukchi general permits will not adversely affect EFH or those species regulated under a Federal Fisheries Management Plan.

Coastal Zone Management Act. As of July 1, 2011, there is no longer a Coastal Zone Management Act (CZMA) program in Alaska. Consequently, federal agencies are no longer required to provide the State of Alaska with CZMA consistency determinations.

Paperwork Reduction Act. The information collection requirements of the Beaufort and Chukchi general permits are consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Regulatory Flexibility Act. 5 U.S.C. 601 et seq., requires that EPA prepare a regulatory flexibility analysis on rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities.

However, NPDES general permits are not "rules" and are therefore not subject to the Regulatory Flexibility Act (RFA).

Unfunded Mandates Reform Act. Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires federal agencies to assess the effects of their "regulatory actions" (defined to be the same as "rules" subject to the RFA) on tribal, state, and local governments and the private sector. However, the Beaufort and Chukchi general permits are not "rules" subject to the RFA, and are therefore not subject to the UMRA.

Appeal of Permit. Any interested person may appeal the Beaufort and Chukchi general permits in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the permit issuance date. Persons affected by the permit may not challenge the conditions of the permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the permits in court or apply for an individual NPDES permit.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act, 33 U.S.C. 1342. I hereby provide public notice of the final permit action in accordance with 40 CFR 124.15(b).

Dated: October 23, 2012.

Christine Psyk,

Associate Director, Office of Water and Watersheds, Region 10.

[FR Doc. 2012–26518 Filed 10–26–12; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of Information Collection—Extension Without Change: Elementary-Secondary Staff Information Report (EEO–5).

SUMMARY: In accordance with the Paperwork Reduction Act (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it intends to submit to the Office of Management and Budget (OMB) a request for a three-year extension of the Elementary-Secondary Staff Information Report (EEO–5). On July 2, 2012, the EEOC published a notice stating it was requesting OMB approval for a revision to the previously approved EEO–5 under the PRA's emergency processing procedures. 77

FR 39238 (July 2, 2012). At that time, EEOC requested approval to revise the race and ethnicity categories on the EEO–5 report to conform to OMB's *Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*. The Office of Management and Budget (OMB) has approved the revised EEO–5 through February 2013. EEOC is now requesting a regular extension without change of the revised EEO–5.

DATES: Written comments on this notice must be submitted on or before December 28, 2012. Pursuant to 42 U.S.C. 2000e–8(c), a public hearing concerning the EEO–5 will be held at a place and time to be announced. Persons wishing to present their views orally should notify the Commission of their desire to do so in writing no later than November 28, 2012. The request to present views orally at a public hearing should include a written summary of the remarks to be offered.

ADDRESSES: Comments should be sent to Bernadette Wilson, Acting Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile ("FAX") machine. This limitation is necessary to assure access to the equipment. The telephone number of the fax receiver is (202) 663–4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTD). (These are not toll-free telephone numbers.) Instead of sending written comments to EEOC, you may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. All comments received through this portal will be posted without change, including any personal information you provide. Copies of comments submitted by the public to EEOC directly or through the Federal eRulemaking Portal will be available for review, by advance appointment only, at the Commission's library between the hours of 9:00 a.m. and 5 p.m. or can be reviewed at <http://www.regulations.gov>. To schedule an appointment to inspect the comments at EEOC's library, contact the library staff at (202) 663–4630 (voice) or (202) 663–4641 (TTY). (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT:

Ronald Edwards, Director, Program Research and Surveys Division, 131 M Street NE., Room 4SW30F, Washington, DC 20507; (202) 663-4949 (voice) or (202) 663-7063 (TTY).

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 and OMB regulations 5 *CFR*

1320.8(d)(1), the Commission solicits public comment to enable it to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of Information Collection

Collection Title: Elementary-Secondary Staff Information Report (EEO-5).

OMB-Number: 3046-0003.

Frequency of Report: Biennial.

Type of Respondent: Certain public elementary and secondary school districts.

Description of Affected Public: Certain public elementary and secondary school districts.

Number of Responses: 6,190.

Estimated Burden Hours: 15,475.

Cost to the Respondents: \$0.

Federal Cost: \$190,000.

Number of Forms: 1.

Form Number: EEOC Form 168A.

Abstract: Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed, to preserve such records, and to produce reports as the Commission prescribes by regulation or order. Accordingly, the EEOC issued regulations prescribing the reporting requirements for elementary and secondary public school districts. The EEOC uses EEO-5 data to investigate charges of employment discrimination against elementary and secondary public school districts. The

data also are used for research. The data are shared with the Department of Education (Office for Civil Rights) and the Department of Justice. Pursuant to Section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO-5 data also are shared with state and local Fair Employment Practices Agencies (FEPAs).

When the EEO-5 form was previously approved by OMB in April 2012, it utilized the following race and ethnicity categories: White, Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaska Native. OMB has recently approved use of a revised EEO-5 form through February 2013. The revised form utilizes the following race and ethnicity categories: Hispanic or Latino; White; Black or African American; Asian; Native Hawaiian or Other Pacific Islander; American Indian or Alaska Native; and Two or More Races. EEOC is now requesting a regular extension without change of the revised EEO-5 Form.

Burden Statement: The estimated number of respondents included in the biennial EEO-5 survey is 6,190 public elementary and secondary school districts. The form is estimated to impose 15,475 burden hours biennially.

Dated: October 23, 2012.

For the Commission.

Jacqueline A. Berrien,
Chair.

[FR Doc. 2012-26501 Filed 10-26-12; 8:45 am]

BILLING CODE 6570-01-P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2012-122]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB Review and Comments Request.

Form Title: Application for Approved Finance Provider (EIB 10-06).

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

Ex-Im Bank has made the following changes to this form:

Under Approved Finance Provided add the following programs:

Master Guarantee Agreement—

Working Capital Guarantee Credits
Global Credit Express—Originating Lender
Other (please specify)

Under Required Supplemental Information paragraph d—changed to read:

d. Description of Applicant's trace finance and or commercial lending or asset based lending experience and a description of said experience of each member of senior management and each person who will be responsible for the Ex-Im Bank relationship, including each person who will sign the MGA (if one is being requested) or other documents to be submitted to Ex-Im Bank.

Updated all Certifications and Notices as needed.

The Application for Approved Finance Provider will be used to determine if the finance provider has the financial strength and administrative staff to originate, administer, collect, and if needed, restructure international loans. This application will also improve Ex-Im Bank's compliance with the Open Government initiative by providing transparency into specific information used to determine if an applicant is qualified to use our loan guarantee programs. Export-Import Bank potential finance providers will be able to submit this form on paper. In the future, we will consider allowing the submission of this information electronically.

This application can be viewed at www.exim.gov/pub/pending/EIB10_06.pfd.

DATES: Comments should be received on or before December 28, 2012.

ADDRESSES: Comments maybe submitted electronically on

WWW.REGULATIONS.GOV or by mail to Jeffrey Abramson, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 10-06 Application for Approved Finance Provider.

OMB Number: 3048-0032.

Type of Review: Regular.

Need and Use: The Application for Approved Finance Provider will be used to determine the financial and administrative capabilities of a financial provider who will arrange, fund and administer international loans.

Annual Number of Respondents: 50.

Estimated Time per Respondent: 3 hours.

Total Respondent time: 150 hours.

Government Annual Burden Hours: 100 hours.

Frequency of Reporting or Use: Yearly.

Cost to the Government: \$4,160.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2012-26508 Filed 10-26-12; 8:45 am]

BILLING CODE 6690-01-P

FEDERAL TRADE COMMISSION

[File No. 102 3155]

Compete, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before November 19, 2012.

ADDRESSES: Interested parties may file a comment at <https://ftcpublish.commentworks.com/ftc/competeinconsent> online or on paper, by following the instructions in the Request for Comment part of the

SUPPLEMENTARY INFORMATION section below. Write “Compete, Inc., File No. 102 3155” on your comment and file your comment online at <https://ftcpublish.commentworks.com/ftc/competeinconsent>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ruth Yodaiken (202-326-2127), Jamie Hine (202-326-2188), FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent

agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 22, 2012), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before November 19, 2012. Write “Compete, Inc., File No. 102 3155” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which * * * is privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublish.commentworks.com/ftc/competeinconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that Web site.

If you file your comment on paper, write “Compete, Inc., File No. 102 3155” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before November 19, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order applicable to Compete, Inc. (“Compete”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

Compete develops software for tracking consumers as they shop, browse and interact with different Web sites across the Internet. As alleged in the Commission’s complaint, Compete

offered one version of its tracking software as the Compete Toolbar, which would provide consumers with information about Web sites as they surfed the web, such as information about the popularity of the Web sites they visited. Separately, Compete offered consumers membership in its Consumer Input Panel: Consumers could win rewards while participating in surveys about products and services. As part of the registration process for the Consumer Input Panel, consumers would install tracking software. In addition, Compete licensed its tracking software to third parties, such as Upromise, Inc., which was the subject of a recent FTC enforcement action. (See Upromise, Inc.) <http://www.ftc.gov/os/caselist/1023116/index.shtm>.

The Commission's complaint involves the advertising, marketing and operation of tracking software. According to the FTC complaint, while Compete represented to consumers that the various forms of software would collect information about the Web sites consumers visited, its failure to disclose the full extent of data collected through tracking software was deceptive. The complaint alleges that Compete's tracking software collected the names of all Web sites visited; all links followed; advertisements displayed when Web sites were visited; and information that consumers entered into some web pages (e.g., credit card and financial account numbers, usernames, passwords, and search terms), including secure web pages.

According to the FTC complaint, Compete misrepresented its privacy and security practices, including that: (1) It stripped all personal information out of the data it collected before transmitting it from consumers' computers; and (2) it employed reasonable and appropriate measures to protect data gathered from consumers from unauthorized access. The complaint alleges that these claims were false and thus violate Section 5 of the FTC Act.

In addition, the FTC complaint alleges that Compete engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security for the personal information it collected and maintained. The complaint alleges that, among other things, Compete: (1) Transmitted sensitive information from secure web pages, such as financial account numbers and security codes, in clear readable text; (2) did not design and implement reasonable safeguards to control risks to consumer information; and (3) did not use readily available, low-cost measures to assess and address the risk that its software would collect

sensitive consumer information it was not authorized to collect.

The complaint alleges that Compete's failure to employ reasonable and appropriate measures to protect consumer information—including credit card and financial account numbers, security codes and expiration dates, and Social Security numbers—was unfair. Tools for capturing data in transit, for example over unsecured wireless networks such as those often provided in coffee shops and other public spaces, are commonly available, making such clear-text data vulnerable to interception. The misuse of such information—particularly financial account information and Social Security numbers—can facilitate identity theft and related consumer harms.

The complaint alleges that after flaws in Compete's data collection practices were revealed publicly in January 2010, Compete upgraded its filters, added new algorithms to screen out information such as credit card numbers, and began encrypting data in transit.

The proposed order contains provisions designed to prevent Compete from engaging in future practices similar to those alleged in the complaint. For purposes of the proposed consent order, we call such tracking software a "Data Collection Agent."²

Part I applies to collection and use of data from any Data Collection Agent, whether already downloaded or to be downloaded in the future, and is tailored to address distribution by both Compete and third parties. Specifically Parts I.A. and B. of the proposed order apply to Data Collection Agents installed after the date of service of the order. Part I.A. prohibits Compete from collecting data through a Data Collection Agent unless a consumer has given express affirmative consent to such collection, after being provided with a separate, clear and prominent notice about all the types of information that will be collected, as well as a description of how the information is to be used, including any sharing with third parties. Part I.B. ensures these same protections apply when a Data

Collection Agent is made available by a third party, and requires that Compete must either provide notice and obtain consent, or require the third party to do so and monitor the third party's compliance. In addition, Parts I.C. and D. of the proposed order limit the collection and use of data from consumers who already have downloaded a Data Collection Agent (i.e., before the date of service of the order) to aggregate and anonymous data, absent notice and affirmative express consent. Part I.E. requires Compete to obtain express affirmative consent before it can make any material changes to its practices for collection or sharing of personal information.

Part II.A. of the proposed order requires Compete to provide corrective notice to consumers who had previously installed a Data Collection Agent. Compete must inform consumers about the categories of personal information collected and transmitted by the software, and how to uninstall it. Part II.B. requires the company to provide for two years phone and email support to assist consumers who seek to disable or uninstall a Data Collection Agent.

Part III of the proposed order requires Compete to provide a copy of the order to third parties with whom it has now, or will have in the future, any agreement in connection with any Data Collection Agent made available by the third party.

Part IV of the proposed order prohibits the company from making any misrepresentations about the extent to which it maintains and protects the security, privacy, confidentiality, or integrity of any information collected from or about consumers.

Part V of the proposed order requires Compete to maintain a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of information (whether in paper or electronic format) about consumers. The security program must contain administrative, technical, and physical safeguards appropriate to Compete's size and complexity, the nature and scope of its activities, and the sensitivity of the information. Specifically, the proposed order requires Compete to:

- Designate an employee or employees to coordinate and be accountable for the information security program;
- Identify material internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and

² "Data Collection Agent" is defined in the proposed order as any software program, including any application; created, licensed or distributed, directly or through a Third Party, by respondent; installed on consumers' computers, whether as a standalone product or as a feature of another product; and used to record, or transmit information about any activity occurring on that computer, unless: (a) The activity involves transmission of information related to the configuration of the software program or application itself; (b) the transmission is limited to information about whether the program is functioning as intended; or (c) the activity involves a consumer's interactions with respondent's Web sites and/or forms.

assess the sufficiency of any safeguards in place to control these risks;

- Design and implement reasonable safeguards to control the risks identified through risk assessment, and regularly test or monitor the effectiveness of the safeguards' key controls, systems, and procedures;
- Develop and use reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from Compete or obtain on behalf of Compete, and require service providers by contract to implement and maintain appropriate safeguards; and
- Evaluate and adjust its information security programs in light of the results of testing and monitoring, any material changes to operations or business arrangements, or any other circumstances that it knows or has reason to know may have a material impact on its information security program.

Part VI of the proposed order requires Compete to obtain within 180 days after service of the order, and biennially thereafter for 20 years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) It has in place a security program that provides protections that meet or exceed the protections required by the proposed order; and (2) its security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and has so operated throughout the reporting period.

Part VII requires Compete to destroy all consumer data collected by a Data Collection Agent before February 2010.

Part VIII requires Compete to retain documents relating to its compliance with the order. Part IX requires that it deliver copies of the order to persons with responsibilities relating to the subject matter of the order. Parts X, XI, and XII of the proposed order are further reporting and compliance provisions. Part X ensures notification to the FTC of changes in corporate status. Part XI mandates that Compete submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part XII provides that the order will terminate after 20 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the proposed order's terms in any way.

By direction of the Commission, Commissioner Rosch abstaining.

Donald S. Clark,

Secretary.

[FR Doc. 2012-26464 Filed 10-26-12; 8:45 am]

BILLING CODE 6750-01-P

GENERAL SERVICES ADMINISTRATION

[Notice-CPO-2012-01; Docket 2012-0002; Sequence 21]

SES Performance Review Board

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of new members to the General Services Administration Senior Executive Service Performance Review Board. The Performance Review Board assures consistency, stability, and objectivity in the performance appraisal process.

DATES: *Effective Date:* October 29, 2012.

FOR FURTHER INFORMATION CONTACT: Anthony Costa, Chief People Officer, Office of the Chief People Officer, General Services Administration, 1275 First Street NE., Washington, DC 20002, (202) 501-0398.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of title 5 U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review board(s). The board is responsible for making recommendations to the appointing and awarding authority on the performance appraisal ratings and performance awards for the Senior Executive Service employees.

The following have been designated as members of the Performance Review Board of the General Services Administration:

Susan F. Brita, Deputy Administrator—Chair.

Anthony E. Costa, Chief People Officer.
Jiyoun C. Park, Associate Administrator for Small Business Utilization.

Sonny Hashmi, Deputy Chief Information Officer.

Joanna Rosato, Regional Commissioner for Public Buildings Service, Northeast & Caribbean Region.

Linda C. Chero, Regional Commissioner for Federal Acquisition Service, Mid-Atlantic Region.

Michael S. Gelber, Regional Commissioner for Federal Acquisition Service, Pacific Rim Region.

Dated: October 19, 2012.

Daniel M. Tangherlini,

Acting Administrator.

[FR Doc. 2012-26436 Filed 10-26-12; 8:45 am]

BILLING CODE 6820-34-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-13-12JM]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639-7570 or send an email to omb@cdc.gov. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395-5806. Written comments should be received within 30 days of this notice.

Proposed Project

Improving the Health and Safety of the Diverse Workforce—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Stress is one of the major causes of diminished health, safety, and productivity on the job (Jordan *et al*, 2003; Brunner, 2000). Increasing medical care utilization costs, job dissatisfaction, poor job performance, and employee turnover are some of the documented health, economic, psychological, and behavioral consequences of stress (Levi, 1996).

Because of their general concentration in high-hazard and/or lower-status occupations, some racial and ethnic minority workers may be over-exposed to workplace factors (e.g., high workload and low job control) which have traditionally linked to a variety of stress-related health and safety problems. In addition, racial and ethnic minorities appear to be significantly more likely than non-minorities to encounter discrimination and other race-related stressors in the workplace (e.g., Krieger *et al*, 2006; Roberts *et al*, 2004).

Given a potentially greater stress burden, racial and ethnic minority workers may be at heightened risk for the development of health and safety problems associated with stress. On the

other hand, occupational stress research experts suggest that certain workplace and other factors (e.g., co-worker and supervisory support, anti-discrimination policies and practices, etc.) may help reduce stress among employees, including racial and ethnic minorities.

The goals of this project are to evaluate: (1) The degree of exposure of minority and non-minority workers to various workplace and job stressors (2) the impact of these stressors on health and safety outcomes and (3) the organizational (e.g., organizational characteristics, policies and practices) and other factors that protect minority

and other workers from stress and associated problems in health and safety. The data collection will ultimately help CDC/NIOSH focus intervention and prevention efforts that are designed to benefit the health and safety of the diverse U.S. workforce.

The study entails collecting standardized information from working adults via a telephone interview. Respondents will be asked about: (1) Their exposure to workplace and job stressors, including those related to race and ethnicity (2) their health and safety status and (3) organizational characteristics, policies and practices

that may or may not buffer them from the adverse effects of work-related stressors. Respondents will be a random sample of 2,300 Blacks/African Americans, White/European Americans, Hispanic/Latino Americans, American Indian/Alaska Natives, and Asian Americans. All telephone interview respondents will be between the ages of 18 and 65, English-speaking, either currently employed or unemployed for no more than 3 years, and living within the Chicago Metropolitan area. There are no costs to respondents other than their time. The total estimated annual burden hours are 1,150.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)
Individual	Telephone Interviews	2,300	1	30/60

Dated: October 23, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012-26496 Filed 10-26-12; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-13-12MW]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404-639-7570 or send comments to Kimberly S. Lane, at 1600 Clifton Road, MS D74, Atlanta, GA 30333 or send an email to omb@cdc.gov.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Written comments should be received within 60 days of this notice.

Proposed Project

Hepatitis Testing and Linkage to Care Monitoring & Evaluation System—New-National Center for HIV/AIDS, Viral Hepatitis, STD and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention is requesting a three-year OMB approval for establishing a Hepatitis Testing and Linkage to Care (HEPTLC) Monitoring and Evaluation System to collect standardized, non-identifying, client-level and test-level hepatitis testing information from funded testing sites at multiple settings. Grantees will be required to use this web-based HEPTLC software application to collect and report testing and linkage to care activities.

The HEPTLC data collection and reporting system will enable CDC to receive standardized, non-identifying information from funded grantees, including: (1) Information about test sites that provide HEPTLC services and laboratories that provide lab testing; (2)

Information about testing participants, including demographics, risk characteristics, vaccination history, etc. (3) Information related to diagnostic test results; and (4) Information about post-test follow-ups, including notification of test result, post-test-counseling, linkage to care and preventive services, and case report to surveillance authorities. CDC will use HEPTLC data for the following purposes: (1) Monitor the implementation activities of the HEPTLC initiative, as well as evaluate the progress and performance made by the grantees. Findings will further inform strategic planning and program improvement; (2) Inform recommendations and strategies of increasing early identification of infected persons and linkage to care, based on participant characteristics and linkage to care among those persons who are infected; (3) Identify best practices and gaps in implementing HEPTLC in various testing settings, and guide CDC in providing technical assistance to the grantees; (4) Produce standardized and specialized reports that will inform grantees, CDC Project Officers, HHS, Congress and other stakeholders of the process, outcome and accountability measures; (5) Assess public health prevention funds and resources allocations with respect to prioritized risk populations; (6) Advocate the needs for priority setting and budget allocation for hepatitis prevention.

Funded sites will use HEPTLC data for the following purposes: (1) Understand targeted populations (demographics, risk behaviors, vaccination histories, etc) and assess the

extent to which the targeted populations have been reached; (2) Document how well the project is progressing in meeting goals/objectives set forth by CDC (e.g. who delivered what to whom, how many, where, when, and how well), as well as performance indicators related to testing, counseling and linkage to care; (3) Highlight opportunities for local program collaboration and service integration (PCSI) to prevent hepatitis; (4) Fulfill data collection and reporting requirements outlined in the cooperative agreements.

The data will enable CDC to be accountable for the funding it provides,

the populations that are served, the services being provided, and for the strategies and practices effectiveness in implementing HEPTLC. The data will also enable CDC to be accountable to the administration, Congress, or other stakeholders for the proper use of public money or provide transparency for the programs it funds.

Respondents will be testing sites at multiple settings, including health departments, community based organizations (CBOs), community health centers (CHCs), person who inject drugs (PWID) treatment centers, and other settings, e.g. HIV or STD clinics, Federally Qualified Health Centers

(FQHCs). They will routinely collect, enter, and report information about the test site, client demographics and behaviors, testing results and linkage to care follow up information within the web-based HEPTLC system. CDC anticipates that routine information collection will begin once OMB approval is received and will be carried out through the project period September 2012–September 2013.

There are no costs to respondents other than their time. The total estimated annual burden hours are 6000.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Responses per respondent	Average burden per response (in hours)
HBV—CBOs/Health Jurisdictions HCV—multiple sites (IDU, CHCs, Others, ECHO)	HEPTLC Data Variables & Values (test-level monthly reporting).	40	12	12
HBV—CBOs/Health Jurisdictions HCV—multiple sites (IDU, CHCs, Others, ECHO)	HEPTLC Template (program-level reporting/ quarterly).	40	4	1.5

Dated: October 22, 2012.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2012-26498 Filed 10-26-12; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Dose Reconstruction Reviews (SDRR), Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned subcommittee:

Time and Date: 8:30 a.m.–5:00 p.m. Eastern Time, November 27, 2012.

Place: Cincinnati Airport Marriott, 2395 Progress Drive, Hebron, Kentucky 41018. Telephone (859) 334-4611, Fax (859) 334-4619.

Status: Open to the public, but without an oral public comment period. To access by

conference call dial the following information 1 (866) 659-0537, Participant Pass Code 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2013.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on

whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee for Dose Reconstruction Reviews was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters To Be Discussed: The agenda for the Subcommittee meeting includes: Reconsidering the Board's dose reconstruction case review process; dose reconstruction program quality management and assurance activities, including: Current findings from NIOSH internal dose reconstruction blind reviews, presentation of the test plan for validating dose reconstruction tools, presentation of the evolution of peer-review procedures, presentation of statistics summarizing errors detected and/or corrected through current peer-review procedures; and discussion of dose reconstruction cases under review (sets 8–9, Rocky Flats Plant cases from sets 10–13, and two blind dose reconstruction cases).

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Contact Person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road, Mailstop E-20, Atlanta, Georgia 30333. Telephone (513)

533-6800, Toll Free 1 (800) CDC-INFO, Email ocas@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 22, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012-26495 Filed 10-26-12; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis (ACET)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Dates: 8:30 a.m.–5:30 p.m., December 4, 2012; 8:30 a.m.–2:30 p.m., December 5, 2012.

Place: CDC, Corporate Square, 1800 Corporate Boulevard, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30329, Telephone: (404) 639-8317.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters To Be Discussed: Agenda items include the following topics: (1) CDC's efforts on global tuberculosis control; (2) The epidemiology of TB-HIV in the United States; (3) Post-deployment tuberculosis in the United States military; (4) ACET workgroups activities updates; and (5) other tuberculosis-related issues.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, CDC, 1600 Clifton Road NE., M/S E-07, Atlanta, Georgia 30333, Telephone: (404) 639-8317.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for

both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 22, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2012-26490 Filed 10-26-12; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2012-N-0547]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Retail and Foodservice Facility Types (2013-2022)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by November 28, 2012.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-7285, or emailed to oir_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-NEW and title "Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Retail and Foodservice Facility Types (2013-2022)." Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrahi, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50-400B, Rockville, MD 20850, 301-796-7726, Ila.Mizrahi@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Survey on the Occurrence of Foodborne Illness Risk Factors in Selected Retail and Foodservice Facility Types (2013-2022)—(OMB Control Number 0910-NEW)

I. Background

In 1998, the U.S. Food and Drug Administration's National Retail Food Team initiated a 10-year voluntary survey to measure trends in the occurrence of foodborne illness risk factors—preparation practices and employee behaviors most commonly reported to the Centers for Disease Control and Prevention (CDC) as contributing factors to foodborne illness outbreaks at the retail level.

Specifically, the survey included data collection inspections of various types of retail and foodservice establishments at 5-year intervals (1998, 2003, and 2008) in order to observe and document trends in the occurrence of the following foodborne illness risk factors:

- Food from Unsafe Sources.
- Poor Personal Hygiene.
- Inadequate Cooking.
- Improper Holding/Time and Temperature.
- Contaminated Equipment/Protection from Contamination.

FDA developed reports summarizing the findings for each of the three data collection periods (1998, 2003, and 2008) (Refs. 1 to 3). Data from all three data collection periods were analyzed to detect trends in improvement or regression over time and to determine whether progress had been made toward the goal of reducing the occurrence of foodborne illness risk factors in selected retail and foodservice facility types (Ref. 4).

The research obtained from these studies provides FDA a solid foundation for developing a national retail food program model that can be used by Federal, State, local, and tribal agencies to:

- Identify essential food safety program performance measurements;
- Assess strengths and gaps in the design, structure, and delivery of program services;
- Establish program priorities and intervention strategies focused on reducing the occurrence of foodborne illness risk factors; and
- Create a mechanism that justifies program resources and allocates them to program areas that will provide the most significant public health benefits.

Using this 10-year survey as a foundation, FDA is proposing to conduct a new voluntary survey encompassing annual data collections over a 10-year period. The survey will

determine the following for each facility type included in the study:

- The foodborne illness risk factors that are in most need of priority attention during each data collection period;
- Trends of improvement or regression in foodborne illness risk factor occurrence over time; and
- The impact of industry food safety management systems in controlling the occurrence of foodborne illness risk factors.

The results of the proposed study will be used to:

- Formulate Agency retail food safety policies and initiatives;
- Identify retail food work plan priorities and allocate resources to enhance retail food safety nationwide;
- Generate nationally representative estimates of the progress being made to reduce the occurrence of foodborne illness risk factors in retail and foodservice establishments; and

- Recommend best practices and targeted intervention strategies to assist the retail and foodservice industry and state, local, and tribal regulators with reducing foodborne illness risk factors.

The statutory basis for FDA conducting this survey is the Public Health Service Act (the PHS Act) (42 U.S.C 243, section 311(a)) (Also 21 CFR 5.10(a)(2) and (4)), which requires that FDA provide assistance to state and local governments relative to the prevention and suppression of communicable diseases. In addition, the PHS Act requires that FDA cooperate with and aid state and local authorities in the enforcement of their health regulations and provide advice on matters relating to the preservation and improvement of public health. Additionally, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301) and Economy Act (31 U.S.C. 1535) require that FDA provide assistance to other

Federal, State, and local governmental bodies.

In early 2013, FDA will conduct a pilot data collection to practice the use of the data collection form and methods and test exportation of the pilot data into a central repository. Following the pilot, the Agency plans to conduct annual data collections beginning in 2013 with the initial data collection for select restaurant facility types, followed by the initial data collection for select institutional foodservice facility types in 2014 and select retail food store facility types in 2015. The results of the initial data collection for each of the facility types will serve as the baseline measurement from which trends will be analyzed. Two additional data collection periods for each of the facility types are planned at 3-year intervals after the initial data collection for purposes of analyzing trends.

TABLE 1—SUMMARY OF DATA COLLECTION TIMEFRAMES ¹

Industry segment	Facility types included in the survey	Year for initial data collection (baseline measurement)	Second data collection period	Third and final data collection period
Restaurants	Full Service Restaurants Fast Food Restaurants.	2013	2016	2019
Institutional Foodservice	Hospitals Nursing Homes	2014	2017	2020
Retail Food Stores	Elementary Schools (K–5) Deli Departments/Stores Meat & Poultry Departments/Markets Seafood Departments/Markets Produce Departments/Markets	2015	2018	2021

¹ Data collections for each of the facility types within an industry segment will be conducted using a 3-year interval period. Initial data collection will serve as the baseline. Subsequent collections will provide the data needed to analyze trends.

A description of the facility types included in the proposed survey is included in table 2:

TABLE 2—DESCRIPTION OF THE FACILITY TYPES INCLUDED IN THE SURVEY

Industry segment	Facility type	Description
Restaurants	Full Service Restaurants	Establishments where customers place their order at their table, are served their meal at the table, receive the service of the wait staff, and pay at the end of the meal.
	Fast Food Restaurants	Also referred to as quick service restaurants and defined as any restaurant that is not a full service restaurant.
Institutional Foodservice	Hospitals	Foodservice operations that serve patients, staff, and hospital visitors in a traditional hospital setting. Individuals who are acutely ill to those who are immunocompromised are a target population for data collection.
	Nursing Homes	Foodservice operations that serve highly susceptible populations living in a group care setting. The elderly (55+ years) is the target population for the data collection. Also includes assisted living facilities.
	Elementary Schools (K–5)	Foodservice operations that serve students from one or more grade levels from preschool through grade 5. Young children are a target population for the data collection.

TABLE 2—DESCRIPTION OF THE FACILITY TYPES INCLUDED IN THE SURVEY—Continued

Industry segment	Facility type	Description
Retail Food Stores	Deli Departments/Stores	Departments in retail food stores where potentially hazardous foods (time/temperature control for safety foods) such as luncheon meats and cheeses are sliced for the customer and where sandwiches and salads are prepared on site or received from a commissary in bulk containers, portioned, and displayed. Free-standing cheese shops are categorized as delis. Parts of the deli may also include: <ul style="list-style-type: none"> • Salad bars and other food bars maintained by the deli department manager; • Areas where meat or poultry are cooked and offered for sale as ready-to-eat; • Pizza stands; and • Limited bakery operations attached to or adjacent to the deli.
	Meat and Poultry Departments/Markets	Meat and poultry departments in a retail food store, as well as any freestanding meat market or butcher shop that sells raw meat or poultry directly to the consumer.
	Seafood Departments/Markets	Seafood departments in retail food stores and freestanding seafood markets that sell seafood directly to the consumer including the preparation and sale of raw and/or ready-to-eat seafood. In-store sushi bars are considered part of the seafood department for the purposes of the data collection.
	Produce Departments/Markets	Areas or departments where produce is cut, prepared, stored, or displayed. A produce department may include salad bars that are managed by the produce manager, as well as juicers.

A geographical information system database containing a listing of businesses throughout the United States will be used as the establishment inventory for the data collections. FDA's Center for Food Safety and Applied Nutrition (CFSAN) Biostatistical Branch, in collaboration with the FDA National Retail Food Team, will perform a series of filtering processes of the various database food establishment categories to ensure establishments are correctly classified and considered eligible to participate in the survey based on the descriptions in table 2.

To further determine the pool of establishments eligible for selection, an effort will be made to exclude operations that handle only prepackaged food items or conduct low-risk food preparation activities. The FDA Food Code contains a grouping of establishments by risk, based on the type of food preparation that is normally conducted within the operation (Ref. 5). The vast majority of selected establishments are to be chosen from risk categories 2 through 4.

FDA has approximately 25 Regional Retail Food Specialists (Specialists) who will serve as the data collectors for the 10-year study. The Specialists are geographically dispersed throughout the United States and possess technical expertise in retail food safety and a solid understanding of the operations within each of the facility types to be surveyed. The Specialists are also standardized by FDA's CFSAN personnel in the application and interpretation of the FDA Food Code (Ref. 5). The

geographical distribution of Specialists throughout the United States allows for a broad sampling of facility types in all regions of the United States; therefore, establishments will be randomly selected to participate in the study from among all eligible establishments located within a 150-mile radius of each of the Specialists' home locations.

The pilot will include approximately 4 data collection inspections for each of the approximately 25 Specialists, or a total of 100 inspections. In order to obtain a sufficient number of observations to conduct statistically significant analysis, the FDA CFSAN Biostatistical Branch has determined, based on the previous 10-year foodborne illness risk factor study that was performed, that approximately 400 data collection inspections of each facility type are needed during the initial and subsequent data collection periods. The sample for each data collection period will be evenly distributed among Specialists. Given that participation in the study by industry is voluntary and the status of any given randomly selected establishment is subject to change, substitute establishments will be selected for each Specialist for cases in which the restaurant facility is misclassified, closed, or otherwise unavailable, unable, or unwilling to participate.

Prior to conducting the data collection, Specialists will contact the state or local jurisdiction that has regulatory responsibility for conducting retail food inspections for the selected establishment. The Specialist will verify

with the jurisdiction that the facility has been properly classified for the purposes of the study and is still in operation. The Specialist will also ascertain whether the selected facility is under legal notice from the state or local regulatory authority. If the selected facility is under legal notice, the Specialist will not conduct a data collection and a substitute establishment will be used. An invitation will be extended to the state or local regulatory authority to accompany the Specialist on the data collection visit.

A standard data collection form will be used by the Specialists during each inspection. The form is divided into three sections: Section 1—Establishment Information; Section 2—Regulatory Authority Information; and Section 3—Foodborne Illness Risk Factor and Food Safety Management System Assessment. Section 3 includes three parts (parts A–C) for tabulating the Specialists' observations of the food employees' behaviors and practices in limiting contamination, proliferation, and survival of food safety hazards (part A); the industry food safety management being implemented by the facility (part B); and the frequency of food employee hand washing (part C).

In completing Section 1—Establishment Information of the form, Specialists will ask a standardized set of questions to the establishment owner or person in charge. In completing Section 2—Regulatory Authority Information, the Specialist will ask a standardized set of questions to the program director (or

other designed personnel) of the state or local jurisdiction that has regulatory responsibility for conducting inspections for the selected establishment. The information for completing Section 3, part A of the form will be collected from the Specialists' direct observations of food employee behaviors and practices, supplemented by infrequent, nonstandardized questions to industry personnel when clarification is needed of the food safety procedure or practice being observed. For Section 3, part B of the form, Specialists will ask industry management a standardized set of questions to obtain information on the extent to which the food establishments have developed and implemented food safety management systems. Section 3, part C of the form will involve only direct observations of hand washing frequency by the Specialists. No questions will be asked in the completion of this part of the form.

In the **Federal Register** of June 19, 2012 (77 FR 36544), FDA published a 60-day notice requesting public comment on the proposed collection of information. There were five comments received:

(Comment 1) Jane Public commented that she does not see the usefulness of the study. She also commented that most foodborne illness resulting from food from unsafe sources was caused by agribusiness. She commented that having a Web site on which the public or doctors treating the sick and deceased can post information about foodborne illness would be more effective and targeted than the data collection being proposed by FDA.

(Response) FDA believes that many of the comments made by this submitter are unrelated to the proposed data collection. Relative to the suggestion to have a Web site on which the public or doctors treating the sick or deceased can post information about foodborne illness, surveillance systems like this are already used in the United States to provide information about the occurrence of foodborne disease including, but not limited to, the following: Foodborne Disease Active Surveillance Network (FoodNet); National Antimicrobial Resistance Monitoring System—enteric bacteria (NARMS); National Electronic Norovirus Outbreak Network (CaliciNet); National Molecular Subtyping Network for Foodborne Disease Surveillance (PulseNet); National Notifiable Diseases Surveillance System (NNDSS); National Outbreak Reporting System (NORS); Environmental Health Specialists Network (EHS-Net); and the Public

Health Laboratory Information System (PHLIS). While each surveillance system plays an important role in detecting and preventing foodborne disease and outbreaks, surveillance statistics reflect only a fraction of the cases that occur in the community. This is because foodborne illnesses are largely underdiagnosed and underreported. In addition, surveillance statistics are, by nature, reactive, meaning information is obtained on foodborne illness that has already occurred. In contrast, the data collection proposed by FDA is proactive in nature because it seeks to collect data on the behaviors and practices that could lead to foodborne illness or deaths if not controlled. Using this data, FDA will formulate and implement intervention strategies to proactively reduce foodborne illness risk factors that lead to illness or death if not controlled. For these reasons, FDA does not agree with the submitter that another surveillance-type reporting system would be more effective or targeted than the data collection being proposed by FDA.

(Comment 2) The Food Marketing Institute (FMI) commented that FDA appears to have underestimated the amount of time needed at 15 minutes per event. The commenter states that based on the retail industry's experience during the last survey (2008), the time spent collecting and monitoring data points took up 120 minutes per event per retail grocer, and this caused an undue interruption to business operations and passed on unnecessary costs to those surveyed.

(Response) OMB's regulations at 5 CFR 1320.3(h) define the term "information." Numbered paragraphs under (h) list categories of data that are not "information," and thus do not require OMB approval under the PRA. Under paragraph (h)(3), "[f]acts or opinions obtained through direct observation by an employee or agent of the sponsoring agency or through nonstandardized oral communication in connection with such direct observations," is not "information collection" subject to OMB approval under the PRA. Thus, the estimate of burden is not required to account for the duration of the entire inspection since the data collector's questions will largely be nonstandardized, oral communication in connection with his or her direct observations.

In contrast, information collected in Sections 1 and 2 and Section 3, part B of the data collection form is not available to the data collectors by direct observation together with nonstandardized, oral communication and can only be obtained by asking the

establishment's representatives to respond to a set of standardized questions. Thus, the burden is accurately calculated based solely on the time it will take for the data collectors to interview the respondents to complete these specific sections of the form. However, in consideration of FMI's comment and recent data collection training that was conducted with FDA's National Retail Food Team in September 2012, FDA believes that the original burden for the respondents that was published in table 1 of the 60-day notice may have been underestimated. For this reason, FDA is increasing the burden estimate for each respondent to 30 minutes per response.

(Comment 3) FMI commented that FDA is not aligned with CDC in the development of the study. According to CDC data, most foodborne illness outbreaks occur in restaurants (39 percent compared to <1 percent foodborne illness events occurring in grocery stores as well as 21 percent compared to <1 percent actual foodborne illnesses occurring in grocery stores). Based on the data, FMI believes the study seems to put an unnecessary burden on retail grocery stores as retail grocery stores will be surveyed at a 4:1 ratio. The study should be more balanced between the restaurants and grocers.

(Response) FDA has kept and will continue to keep key CDC staff informed of the plans for and results of the Risk Factor Study so that areas in which our concurrent studies reinforce or run counter to one another can be analyzed and appropriate prevention-based messages developed.

The proposed sample size for each facility type is not intended to mirror the respective burden of foodborne illness caused by each type, but rather represents the minimum number of inspections needed to obtain the number of observations needed to draw statistically significant conclusions. If FDA reduced the number of establishments inspected for the retail food store facility types, it is likely FDA would not obtain the number of observations needed to draw statistically valid conclusions or have the desired confidence level in the data that is obtained.

The restaurant industry segment includes two facility types, institutional foodservice includes three facility types, and the retail food store industry segment includes four facility types. While the total number of data collection inspections in retail food store segment will be higher than that for the restaurant segment, the number

of data collection inspections for each facility type will be the same.

(Comment 4) FMI believes the proposed study fails to meet FDA's Information Quality Guidelines and the requirements of the Data Quality Act because its structure will not provide information of utility to the public or the Agency as it is disproportionately focused on retail food stores when statistics indicate that far more foodborne illness events occur in restaurants.

(Response) Information dissemination is an important part of FDA's mission to promote and protect the public health. FDA recognizes that public access to high quality information is critical to achieving this mission and public input, in turn, improves the quality of the information we disseminate. Because of the nature of this information, our goal has been and remains to ensure that all the information we disseminate meets the high standards of quality (including objectivity, utility, and integrity) described in the OMB and HHS Guidelines and the Data Quality Act (DQA).

To that end, FDA does not agree with FMI's comment that the proposed information collection fails to meet FDA's Information Quality Guidelines and the requirements of the DQA. The sample size in the proposed information collection is not intended to mirror the respective burden of foodborne illness caused by each facility type. Rather, it represents the minimum number of inspections needed for each facility type in order to obtain a sufficient number of observations to draw statistically significant conclusions. If FDA were to reduce the sample size of the retail food store facility types to be more reflective of the burden of foodborne illness caused by these entities, the quality of the data would be compromised and its utility would be severely limited. This is because it would be unlikely that FDA could obtain the number of

observations needed to draw statistically valid conclusions or have the desired confidence level in the conclusions we are able to make.

(Comment 5) The American Meat Institute Foundation (AMIF) commented that they support FDA's proposed survey of selected retail and foodservice facility types. According to AMIF, the survey findings will have practical utility by enhancing the knowledge of foodborne illness risk factors in these types of facilities, informing decisions for developing and implementing risk mitigation strategies, and guiding food safety resource allocation. The followup data collection periods will be useful tools to track trends and benchmark improvements in reducing risk factors.

(Response) FDA thanks the AMIF for their comments and appreciates their support in this undertaking.

Regarding the burden estimation, due to the infrequent and nonstandard nature of the questions that may or may not be asked to clarify direct observations made by the Specialists in completing Section 3, parts A and C of the data collection form, only the burden associated with the information collection related to the completion of Sections 1 and 2 and Section 3, part B of the form is included in burden estimates. For each data collection, the respondents will include the person in charge of the selected facility and the program director (or designated individual) of the respective regulatory authority. In consideration of FMI's comment to the 60-day notice and recent data collection training that was conducted with FDA's National Retail Food Team in September 2012, FDA believes that the original burden that was published in table 3 of the 60-day notice may have been underestimated. For this reason, FDA is increasing the burden estimate for each respondent by 15 minutes per response. For the pilot, 25 Specialists will conduct 4 data

collection inspections; thus, FDA estimates the number of respondents to be 200 (25 Specialists \times 4 data collection inspections \times 2 respondents per data collection). The estimate of the hours per response is based on its previous experience with collecting similar information in previous data collection efforts. We estimate that it will take each of the respondents 30 minutes (0.5 hours) to answer the questions related to Sections 1 and 2 and Section 3, part B of the form, for a total of 100 hours. FDA bases its estimate of the number of respondents during the subsequent activities (data collections) on 400 inspections being conducted in each facility type. FDA CFSAN's Biostatistical Branch has determined that 400 inspections are necessary to provide the sufficient number of observations needed to conduct a statistically significant analysis of the data. The data collections in the Restaurant Segment will occur in 2013, 2016, and 2019 and will each consist of 1,600 respondents. We estimate that it will take each respondent 30 minutes (0.5 hours) to answer the questions related to Sections 1 and 2 and Section 3, part B of the form, for a total of 800 hours. The data collections in the Institutional Foodservice Segment will occur in 2014, 2017, and 2020 and will each consist of 2,400 respondents. We estimate that it will take each respondent 30 minutes (0.5 hours) to answer the questions related to Sections 1 and 2 and Section 3, part B of the form, for a total of 1,200 hours. The data collections in the Retail Food Store Segment will occur in 2015, 2018, and 2021 and will each consist of 3,200 respondents. We estimate that it will take a respondent 30 minutes (0.5 hours) to answer the questions related to Sections 1 and 2 and Section 3, part B of the form, for a total of 1,600 hours. Thus, the total estimated burden is 10,900 hours.

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Pilot Data Collection to Practice Use of Form and Methods and Exportation of Data into Central Repository	200	1	200	0.5	100
2013 Baseline Data Collection—Restaurant Segment (includes two facility types)	1,600	1	1,600	² 0.5	800
2014 Baseline Data Collection—Institutional Foodservice Segment (includes three facility types)	2,400	1	2,400	² 0.5	1,200
2015 Baseline Data Collection—Retail Food Store Segment (includes four facility types)	3,200	1	3,200	² 0.5	1,600
2016 Second Data Collection—Restaurant Segment (includes two facility types)	1,600	1	1,600	² 0.5	800
2017 Second Data Collection—Institutional Foodservice Segment (includes three facility types)	2,400	1	2,400	² 0.5	1,200

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN¹—Continued

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
2018 Second Data Collection—Retail Food Store Segment (includes four facility types)	3,200	1	3,200	² 0.5	1,600
2019 Third and Final Data Collection—Restaurant Segment (includes two facility types)	1,600	1	1,600	² 0.5	800
2020 Third and Final Data Collection—Institutional Foodservice Segment (includes three facility types)	2,400	1	2,400	² 0.5	1,200
2021 Third and Final Data Collection—Retail Food Store Segment (includes four facility types)	3,200	1	3,200	² 0.5	1,600
Total					10,900

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² 30 minutes.

II. References

The following references have been placed on display in the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at <http://www.regulations.gov>. (FDA has verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. Report of the FDA Retail Food Program Steering Committee, "Database of Foodborne Illness Risk Factors (2000)." Available at: <http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2001/ucm123544.htm>.

2. "FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (2004)." Available at: <http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodborneIllnessandRiskFactorReduction/RetailFoodRiskFactorstudies/ucm089696.htm>.

3. "FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (2009)." Available at: <http://www.fda.gov/downloads/Food/FoodSafety/RetailFoodProtection/FoodborneIllnessRiskFactorReduction/RetailFoodRiskFactorStudies/ucm224682.pdf>.

4. FDA National Retail Food Team, "FDA Trend Analysis Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types (1998–2008)." Available at: <http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodborneIllnessandRiskFactorReduction/RetailFoodRiskFactorStudies/ucm223293.htm>.

5. "FDA Food Code." Available at: <http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/default.htm>.

Dated: October 23, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–26472 Filed 10–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0559]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Public Health Service Guideline on Infectious Disease Issues in Xenotransplantation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by November 28, 2012.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to oira_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910–0456. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrahi, Office of Information

Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7726, Ila.Mizrachi@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

PHS Guideline on Infectious Disease Issues in Xenotransplantation—(OMB Control Number 0910–0456)—Extension

The statutory authority to collect this information is provided under sections 351 and 361 of the Public Health Service (PHS) Act (42 U.S.C. 262 and 264) and the provisions of the Federal Food, Drug, and Cosmetic Act that apply to drugs (21 U.S.C. 301 *et seq.*). The PHS guideline recommends procedures to diminish the risk of transmission of infectious agents to the xenotransplantation product recipient and to the general public. The PHS guideline is intended to address public health issues raised by xenotransplantation, through identification of general principles of prevention and control of infectious diseases associated with xenotransplantation that may pose a hazard to the public health. The collection of information described in this guideline is intended to provide general guidance on the following topics: (1) The development of xenotransplantation clinical protocols; (2) the preparation of submissions to FDA; and (3) the conduct of xenotransplantation clinical trials. Also, the collection of information will help ensure that the sponsor maintains important information in a cross-referenced system that links the relevant records of the xenotransplantation product recipient, xenotransplantation product, source animal(s), animal procurement center, and significant nosocomial exposures. The PHS

guideline describes an occupational health service program for the protection of health care workers involved in xenotransplantation procedures, caring for xenotransplantation product recipients, and performing associated laboratory testing. The PHS guideline is intended to protect the public health and to help ensure the safety of using xenotransplantation products in humans by preventing the introduction, transmission, and spread of infectious diseases associated with xenotransplantation.

The PHS guideline also recommends that certain specimens and records be maintained for 50 years beyond the date of the xenotransplantation. These include: (1) Records linking each xenotransplantation product recipient with relevant health records of the source animal, herd or colony, and the specific organ, tissue, or cell type included in or used in the manufacture of the product (3.2.7.1); (2) aliquots of serum samples from randomly selected animal and specific disease investigations (3.4.3.1); (3) source animal biological specimens designated for PHS use (3.7.1); animal health records (3.7.2), including necropsy results (3.6.4); and (4) recipients' biological specimens (4.1.2). The retention period is intended to assist health care practitioners and officials in surveillance and in tracking the source of an infection, disease, or illness that might emerge in the recipient, the source animal, or the animal herd or colony after a xenotransplantation.

The recommendation for maintaining records for 50 years is based on clinical experience with several human viruses that have presented problems in human to human transplantation and are therefore thought to share certain characteristics with viruses that may pose potential risks in xenotransplantation. These characteristics include long latency periods and the ability to establish persistent infections. Several also share the possibility of transmission among individuals through intimate contact with human body fluids. Human immunodeficiency virus (HIV) and Human T-lymphotropic virus are human retroviruses. Retroviruses contain ribonucleic acid that is reverse-transcribed into deoxyribonucleic acid (DNA) using an enzyme provided by the virus and the human cell machinery. That viral DNA can then be integrated into the human cellular DNA. Both viruses establish persistent infections and have long latency periods before the onset of disease, 10 years and 40 to 60 years, respectively. The human hepatitis viruses are not retroviruses, but several share with HIV the characteristic that they can be transmitted through body fluids, can establish persistent infections, and have long latency periods, e.g., approximately 30 years for Hepatitis C.

In addition, the PHS guideline recommends that a record system be developed that allows easy, accurate, and rapid linkage of information among the specimen archive, the recipient's medical records, and the records of the source animal for 50 years. The

development of such a record system is a one-time burden. Such a system is intended to cross-reference and locate relevant records of recipients, products, source animals, animal procurement centers, and nosocomial exposures.

Respondents to this collection of information are the sponsors of clinical studies of investigational xenotransplantation products under investigational new drug applications (INDs) and xenotransplantation product procurement centers, referred to as source animal facilities. There are an estimated two respondents who are sponsors of INDs that include protocols for xenotransplantation in humans. Other respondents for this collection of information are an estimated four source animal facilities that provide source xenotransplantation product material to sponsors for use in human xenotransplantation procedures. These four source animal facilities keep medical records of the herds/colonies as well as the medical records of the individual source animal(s). The total annual reporting and recordkeeping burden is estimated to be approximately 45 hours. The burden estimates are based on FDA's records of xenotransplantation-related INDs and estimates of time required to complete the various reporting, recordkeeping, and third-party disclosure tasks described in the PHS guideline.

FDA is requesting an extension of OMB approval for the following reporting, recordkeeping, and third-party disclosure recommendations in the PHS guideline:

TABLE 1—REPORTING RECOMMENDATIONS

PHS Guideline section	Description
3.2.7.2	Notify sponsor or FDA of new archive site when the source animal facility or sponsor ceases operations.

TABLE 2—RECORDKEEPING RECOMMENDATIONS

PHS Guideline section	Description
3.2.7	Establish records linking each xenotransplantation product recipient with relevant records.
4.3	Sponsor to maintain cross-referenced system that links all relevant records (recipient, product, source animal, animal procurement center, and nosocomial exposures).
3.4.2	Document results of monitoring program used to detect introduction of infectious agents which may not be apparent clinically.
3.4.3.2	Document full necropsy investigations including evaluation for infectious etiologies.
3.5.1	Justify shortening a source animal's quarantine period of 3 weeks prior to xenotransplantation product procurement.
3.5.2	Document absence of infectious agent in xenotransplantation product if its presence elsewhere in source animal does not preclude using it.
3.5.4	Add summary of individual source animal record to permanent medical record of the xenotransplantation product recipient.
3.6.4	Document complete necropsy results on source animals (50-year record retention).
3.7	Link xenotransplantation product recipients to individual source animal records and archived biologic specimens.
4.2.3.2	Record baseline sera of xenotransplantation health care workers and specific nosocomial exposure.
4.2.3.3 and 4.3.2 ..	Keep a log of health care workers' significant nosocomial exposure(s).
4.3.1	Document each xenotransplant procedure.

TABLE 2—RECORDKEEPING RECOMMENDATIONS—Continued

PHS Guideline section	Description
5.2	Document location and nature of archived PHS specimens in health care records of xenotransplantation product recipient and source animal.

TABLE 3—DISCLOSURE RECOMMENDATIONS

PHS Guideline section	Description
3.2.7.2	Notify sponsor or FDA of new archive site when the source animal facility or sponsor ceases operations.
3.4	Standard operating procedures (SOPs) of source animal facility should be available to review bodies.
3.5.1	Include increased infectious risk in informed consent if source animal quarantine period of 3 weeks is shortened.
3.5.4	Sponsor to make linked records described in section 3.2.7 available for review.
3.5.5	Source animal facility to notify sponsor when infectious agent is identified in source animal or herd after xenotransplantation product procurement.

In the **Federal Register** of June 14, 2012 (77 FR 35683), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one

comment from the public. The comment was not responsive to the comment request on the four specified aspects of the collection of information and did not provide any data or explanation that

would support a change regarding the information collection requirements.

FDA estimates the burden for this collection of information as follows:

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN ¹

PHS Guideline section	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
3.2.7.2 ²	1	1	1	0.50 (30 minutes)	0.50

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² FDA is using one animal facility or sponsor for estimation purposes.

TABLE 5—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

PHS Guideline section	No. of recordkeepers	No. of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
3.2.7 ²	1	1	1	16	16
4.3 ³	2	1	2	0.75 (45 minutes)	1.50
3.4.2 ⁴	2	16	32	0.25 (15 minutes)	8
3.4.3.2 ⁵	2	4	8	0.25 (15 minutes)	2
3.5.1 ⁶	2	0.50	1	0.50 (30 minutes)	0.50
3.5.2 ⁶	2	0.50	1	0.25 (15 minutes)	0.25
3.5.4	2	1	2	0.17 (10 minutes)	0.34
3.6.4 ⁷	2	4	8	0.25 (15 minutes)	2
3.7.7	4	2	8.0	0.08 (5 minutes)	0.64
4.2.3.2 ⁸	2	25	50	0.17 (10 minutes)	8.50
4.2.3.2 ⁶	2	0.50	1	0.17 (10 minutes)	0.17
4.2.3.3 and 4.3.2 ⁶	2	0.50	1	0.17 (10 minutes)	0.17
4.3.1	2	1	2	0.25 (15 minutes)	0.50
5.2 ⁹	2	6	12	0.08 (5 minutes)	0.96
Total					41.53

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² A one-time burden for new respondents to set up a recordkeeping system linking all relevant records. FDA is using one new sponsor for estimation purposes.

³ FDA estimates there is minimal recordkeeping burden associated with maintaining the record system.

⁴ Monitoring for sentinel animals (subset representative of herd) plus all source animals. There are approximately 6 sentinel animals per herd × 1 herd per facility × 4 facilities = 24 sentinel animals. There are approximately 8 source animals per year (see footnote 7 of this table); 24 + 8 = 32 monitoring records to document.

⁵ Necropsy for animal deaths of unknown cause estimated to be approximately 2 per herd per year × 1 herd per facility × 4 facilities = 8.

⁶ Has not occurred in the past 3 years and is expected to continue to be a rare occurrence.

⁷ On average 2 source animals are used for preparing xenotransplantation product material for one recipient. The average number of source animals is 2 source animals per recipient × 4 recipients annually = 8 source animals per year. (See footnote 5 of table 3 of this document.)

⁸ FDA estimate there re approximately 2 clinical centers doing xenotransplantation procedure × approximately 25 health care workers involved per center = 50 health care workers.

⁹ Eight source animal records + 4 recipient records = 12 total records.

TABLE 6—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN ¹

PHS Guideline section	No. of respondents	No. of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
3.2.7.2 ²	1	1	1	0.50 (30 minutes)	0.50
3.4 ³	4	0.50	2	0.08 (5 minutes)	0.16
3.5.1 ⁴	4	0.25	1	0.25 (15 minutes)	0.25
3.5.4 ⁵	4	1	4	0.50 (30 minutes)	2
3.5.5 ⁴	4	0.25	1	0.25 (15 minutes)	0.25
Total					3.16

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² FDA is using one animal facility or sponsor for estimation purposes.

³ FDA's records indicate that an average of two INDs is expected to be submitted per year.

⁴ To our knowledge, has not occurred in the past 3 years and is expected to continue to be a rare occurrence.

⁵ Based on an estimate of 12 patients treated over a 3-year period, the average number of xenotransplantation produce recipients per year is estimated to be 4.

Because of the potential risk for cross-species transmission of pathogenic persistent virus, the guideline recommends that health records be retained for 50 years. Since these records are medical records, the retention of such records for up to 50 years is not information subject to the PRA (5 CFR 1320.3(h)(5)). Also, because of the limited number of clinical studies with small patient populations, the number of records is expected to be insignificant at this time.

Information collections in this guideline not included in tables 1 through 6 can be found under existing regulations and approved under the OMB control numbers as follows: (1)

“Current Good Manufacturing Practice for Finished Pharmaceuticals,” 21 CFR 211.1 through 211.208, approved under OMB control number 0910–0139; (2) “Investigational New Drug Application,” 21 CFR 312.1 through 312.160, approved under OMB control number 0910–0014; and; (3) information included in a biologics license application, 21 CFR 601.2, approved under OMB control number 0910–0338. (Although it is possible that a xenotransplantation product may not be regulated as a biological product (e.g., it may be regulated as a medical device), FDA believes, based on its knowledge and experience with

xenotransplantation, that any xenotransplantation product subject to FDA regulation within the next 3 years will most likely be regulated as a biological product.) However, FDA recognized that some of the information collections go beyond approved collections; assessments for these burdens are included in tables 1 through 6.

In table 7 of this document, FDA identifies those collection of information activities that are already encompassed by existing regulations or are consistent with voluntary standards which reflect industry’s usual and customary business practice.

TABLE 7—COLLECTION OF INFORMATION REQUIRED BY CURRENT REGULATIONS AND STANDARDS

PHS Guideline section	Description of collection of information activity	21 CFR Section (unless otherwise stated)
2.2.1	Document offsite collaborations.	312.52
2.5	Sponsor ensures counseling patient + family + contacts.	312.62(c)
3.1.1 and 3.1.6	Document well-characterized health history and lineage of source animals.	312.23(a)(7)(a) and 211.84
3.1.8	Registration with and import permit from the Centers for Disease Control and Prevention.	42 CFR 71.53
3.2.2	Document collaboration with accredited microbiology labs.	312.52
3.2.3	Procedures to ensure the humane care of animals.	9 CFR parts 1, 2, and 3 and PHS Policy ¹
3.2.4	Procedures consistent for accreditation by the Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC International) and consistent with the National Research Council’s (NRC) Guide.	AAALAC International Rules of Accreditation ² and NRC Guide ³
3.2.5, 3.4, and 3.4.1	Herd health maintenance and surveillance to be documented, available, and in accordance with documented procedures; record standard veterinary care.	211.100 and 211.122
3.2.6	Animal facility SOPs.	PHS Policy ¹
3.3.3	Validate assay methods.	211.160(a)
3.6.1	Procurement and processing of xenografts using documented aseptic conditions.	211.100 and 211.122
3.6.2	Develop, implement, and enforce SOPs for procurement and screening processes.	211.84(d) and 211.122(c)
3.6.4	Communicate to FDA animal necropsy findings pertinent to health of recipient.	312.32(c)
3.7.1	PHS specimens to be linked to health records; provide to FDA justification for types of tissues, cells, and plasma, and quantities of plasma and leukocytes collected.	312.23(a)(6)
4.1.1	Surveillance of xenotransplant recipient; sponsor ensures documentation of surveillance program life-long (justify >2 years); investigator case histories (2 years after investigation is discontinued).	312.23(a)(6)(iii)(f) and (g), and 312.62(b) and (c)

TABLE 7—COLLECTION OF INFORMATION REQUIRED BY CURRENT REGULATIONS AND STANDARDS—Continued

PHS Guideline section	Description of collection of information activity	21 CFR Section (unless otherwise stated)
4.1.2	Sponsor to justify amount and type of reserve samples.	211.122
4.1.2.2	System for prompt retrieval of PHS specimens and linkage to medical records (recipient and source animal).	312.57(a)
4.1.2.3	Notify FDA of a clinical episode potentially representing a xenogeneic infection.	312.32
4.2.2.1	Document collaborations (transfer of obligation).	312.52
4.2.3.1	Develop educational materials (sponsor provides investigators with information needed to conduct investigation properly).	312.50
4.3	Sponsor to keep records of receipt, shipment, and disposition of investigative drug; investigator to keep records of case histories.	312.57 and 312.62(b)

¹ The “Public Health Service Policy on Humane Care and Use of Laboratory Animals” (<http://www.grants.nih.gov/grants/olaw/references/phspol.htm>).

² AAALAC International Rules of Accreditation (<http://www.aaalac.org/accreditation/rules.cfm>).

³ The NRC’s “Guide for the Care and Use of Laboratory Animals.”

Dated: October 22, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–26494 Filed 10–26–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Privacy Act of 1974; System of Records

AGENCY: Department of Health and Human Services (HHS), Indian Health Service (IHS).

ACTION: Notice of New System of Records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Indian Health Service (IHS) is creating a new system of records entitled “Personal Health Records (PHR) Administrative Records—IHS” 09–17–0005. The new system will serve as an access system, providing IHS patients with web access to a portion of their personal medical information in the IHS Medical, Health, and Billing Records system, 09–17–0001.

DATES: Comments on the new system of records must be received no later than December 13, 2012. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by the IHS, the new system will become effective on the published date of December 13, 2012.

ADDRESSES: Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the IHS Privacy Act Officer, IHS, Office of Management Services, Division of Regulatory Affairs, 801

Thompson Avenue, TMP Suite 450, Rockville, MD 20852; or by fax to (301) 443–9879.

Comments received will be available for public inspection in the IHS Division of Regulatory Affairs, Room 450–26, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (301) 443–1116 (this is not a toll-free number) for an appointment. Additionally, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Christopher Lamer, PharmD, BCPS, MHS, CDE, CDR U.S. Public Health Service, Indian Health Service Nashville Area Office, Office of Information Technology/Health Education, 711 Stewards Ferry Pike, Nashville, TN 37214. Telephone number: (615) 669–2747. Email: chris.lamer@ihs.gov.

SUPPLEMENTARY INFORMATION:

I. Current and Future Functions of the Personal Health Records (PHR) Administrative Records—IHS System (IHS PHR)

The Personal Health Records (PHR) Administrative Records—IHS system (hereafter referred to as “IHS PHR”) is a new web-based access system that will provide IHS patients with Internet access to a portion of their personal medical information in another IHS Privacy Act system. In its current design, the IHS PHR will provide access to information that is a subset of the already defined Department of Health and Human Services, Indian Health Service, Office of Clinical and Preventive Services (HHS/IHS/OCPS) System of Records Notice (SORN) 09–17–0001—IHS Medical, Health, and Billing Records system. The IHS PHR system will contain administrative records needed to manage patients’ web

access; initially, patients will be granted access to view and print portions of their official IHS electronic health record (EHR) via the Internet.

As the IHS PHR develops and eventually provides more than just “view” access to the current IHS Medical, Health and Billing Records system, this System of Records Notice will be updated and republished. Future IHS PHR functionality will include providing tools to the patients which they can use to: Improve their own health and increase their knowledge about health conditions; increase communication with their care providers (i.e., secure electronic messaging with their IHS health care providers); request on-line prescription refills and view upcoming appointments; and enter their own medical information in a “self-entered” health information section through a secure and private health space.

Initially, the IHS PHR will not provide user access to a patient’s personal health information to anyone other than the patient himself or herself.

The print functionality of the IHS PHR will allow patients to share all or part of the information in their account, once the patient prints it out, with personal representatives that they designate, such as family members, legal guardians, as well as IHS and non-IHS health care providers, which is consistent with existing IHS clinical practices.

As the IHS PHR continues to be developed, it will have the ability to register and verify the identity of the patient’s personal representative, in order to provide the representative with user access to the patient’s records. In addition, future system enhancements will enable the IHS PHR to store the patient’s self-entered information in a separate database, which will eventually have the capacity to be linked or

incorporated into the patient's official electronic health record upon the patient's request and/or the IHS's determination that it is appropriate to include in the official medical record.

II. Relationship of IHS PHR to the IHS Medical, Health and Billing Records System

The IHS Medical, Health and Billing Records system is the authoritative source of patients' IHS medical records. Once patients print copies of their medical records using the IHS PHR system, the copies will no longer be maintained subject to or protected by the Privacy Act or the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. Electronic copies of health information are not considered IHS authoritative records, nor are they considered part of the IHS Medical, Health and Billing Records system of records once they are printed by the patient from their IHS PHR account.

The IHS operates a Health Information Exchange among IHS healthcare facilities. Patient health information needed by healthcare providers is exchanged on a need-to-know basis by directly accessing the official IHS medical record in the IHS Medical, Health and Billing Records system, not by using the IHS PHR system. If a non-IHS health care provider requires information from IHS medical records to treat an IHS patient, the non-IHS health care provider should contact the IHS facility where the IHS patient was last treated to obtain that information. The IHS will disclose pertinent patient medical information when transferring patients from an IHS emergency room and in other emergency situations for treatment and continuity of care purposes (see the SORN for the IHS Medical, Health and Billing Records system, 09-17-0001).

III. The Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the U.S. Government collects, maintains, and uses information about individuals in a system of records. A "system of records" is a group of any records under the control of a Federal agency from which information about an individual is retrieved by the individual's name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a system of records notice (SORN) identifying and describing each system of records the agency maintains, including the purposes for which the agency uses information about individuals in the system, the routine uses for which the agency discloses such information

outside the agency, and how individual record subjects can exercise their rights under the Privacy Act (e.g., to determine if the system contains information about them).

09-17-0005

SYSTEM NAME:

Personal Health Records (PHR) Administrative Records-IHS.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

IHS local facilities and the IHS National Data Centers. Address locations for IHS facilities are listed in IHS Appendix 1 of the biennial publications of the IHS systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain personally identifiable information (PII) about individuals using the IHS PHR system. Users include: (1) IHS patients who successfully register and/or opt-in for a IHS PHR account and whose identity has been verified; (2) IHS Information Technology (IT) staff and/or their approved contractors who may need to enter identifying, administrative information into the system to initiate, support and maintain electronic services for PHR participants; and (3) in the future, personal and other representatives of patients who have been granted or delegated access to a patient's IHS PHR account including, but not limited to, family members, friends, legal guardians, as well as non-IHS health care providers, IHS health care providers, and certain IHS administrative staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain the following categories of administrative records and PII data elements pertaining to system users:

1. Registration information, including the individual's full name; IHS PHR User Identifier (ID); date of birth; email address; telephone number(s); mother's maiden name; ZIP code; place and date of registration for IHS PHR; and
2. System Usage Information, including date and type of transaction; web analytics information for the purpose of monitoring, researching and preparing reports on site usage; patient medical record number (MRN); and other administrative data needed to administer PHR roles and services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 1662.

PURPOSE(S):

Registration information will be used to register and verify the identity of patient-users (and, in the future, their representatives), to assign and verify administrators of the PHR portal, to retrieve a patient's information to perform specific functions, to allow access to specific information and to provide other associated PHR electronic services in current and future applications of the PHR program. The registrar has the capacity to authenticate personal representatives or those who are authorized by the patient to create the account in lieu of the patient.

System usage information may be used (in aggregate and/or anonymized form, whenever possible) to create administrative business reports for system operators and IHS managers who are responsible for ensuring that the PHR system is meeting performance expectations and is in compliance with applicable Federal laws and regulations. Administrative information may also be used for evaluation to support program improvement, including IHS approved research studies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may contain information protected by 45 CFR Parts 160 and 164 (i.e., individually identifiable health information). Disclosure of this information must comply with the requirements of these regulations.

1. Disclosure of information in this system of records may be made to contractors and other individuals, organizations, private or public agencies with whom the IHS has a contract or agreement, to perform such services as the IHS may deem practical for the purposes of administering the PHR program, or to perform other such services as IHS deems appropriate and practical for the purposes of administering IHS programs, policies, regulations, rules, executive orders, and statutes.

The IHS must be able to give contractors whatever administrative information is necessary to fulfill their duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract.

2. The IHS may disclose information that is relevant to a suspected or reasonably imminent violation of the law whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued

pursuant thereto, to a Federal, State, local, or Tribal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. The IHS may also disclose the names and addresses of IHS patients to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, or order issued pursuant thereto.

The IHS must be able to comply with the requirements of agencies charged with enforcing the law and conducting investigations. The IHS must also be able to provide information to State or local agencies charged with protecting the public's health as set forth in State law.

3. Disclosure may be made to the National Archives and Records Administration (NARA) and the General Services Administration (GSA) for it to perform its records management inspection responsibilities and its role as Archivist of the United States under authority of Title 44 of the United States Code.

In general, NARA is responsible for the physical maintenance and archiving of the Federal Government's records that are no longer actively used but which may be appropriate for preservation. The IHS must be able to turn records over to these agencies in order to determine the proper disposition of such records.

4. Information may be disclosed to the United States Department of Justice or Assistant United States Attorneys in order to prosecute or defend litigation involving or pertaining to the United States, or in which the United States has an interest.

5. IHS may disclose information from these records in litigations and/or proceedings related to an administrative claim when:

a. IHS has determined that the use of such records is relevant and necessary to the litigation and/or proceedings related to an administrative claim and would help in the effective representation of the affected party listed in subsections (i) through (iv) below, and that such disclosure is compatible with the purpose for which the records were collected. Such disclosure may be made to the HHS/OGC, when any of the following is a party to litigation and/or proceedings related to an administrative claim or has an interest in the litigation and/or proceedings related to an administrative claim:

(i) HHS or any component thereof; or

(ii) Any HHS employee in his or her official capacity; or

(iii) Any HHS employee in his or her individual capacity where the DOJ (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(iv) The United States or any agency thereof (other than HHS) where HHS/OGC has determined that the litigation and/or proceedings related to an administrative claim is likely to affect HHS or any of its components.

b. In the litigation and/or proceedings related to an administrative claim described in subsection (a) above, information from these records may be disclosed to a court or other tribunal, or to another party before such tribunal in response to an order of a court or administrative tribunal, provided that the covered entity discloses only the information expressly authorized by such order.

6. Disclosure may be made to a Congressional office from this system of records in response to an inquiry from the Congressional office made at the request of the individual who is the subject of the records. For example, in special cases, an individual may request the help of a member of Congress to resolve an issue relating to a matter before the IHS. Consequently, the member of Congress may write the IHS, and the IHS must be able to give sufficient information to respond to the inquiry. If the issue involved the PHR, then the individual's PHR may need to be released to Congress, per that individual's request.

7. Disclosure may be made to other Federal agencies to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs. This routine use permits disclosures by HHS to report a suspected incident of identity theft and provide information or documentation related to or in support of the reported incident.

8. Information, including information about PHR use and user transactions accomplished via the Web site, may be provided to research investigators with IHS Institutional Review Board (IRB) and/or IHS Privacy Board approval. Disclosure of this information to research investigators will allow the IHS to evaluate the value of the PHR for purposes of system modification and improvement (i.e., to enhance, advance and promote both the function and the content of the PHR application), and for purposes of promoting patient self-management of health and improved health outcomes.

9. Information may be disclosed to appropriate Federal agencies and Department contractors that have a need

to know the information for the purpose of assisting HHS's efforts to respond to a suspected or confirmed breach of the security of confidentiality of information maintained in this system of records, if the information disclosed is relevant and necessary for that assistance.

The IHS may disclose any information or records to appropriate agencies, entities, and persons when:

a. It is suspected or confirmed that the integrity or confidentiality of information in the system of records has been compromised;

b. HHS has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by HHS or another agency) that rely upon the compromised information; and

c. The disclosure is to agencies, entities, or persons whom the IHS determines are reasonably necessary to assist or carry out HHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by HHS to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These administrative records are maintained on paper and electronic media, including hard drive disks, which are backed up to tape at regular intervals.

RETRIEVABILITY:

Records may be retrieved by an individual's name, user ID, date of registration for IHS PHR electronic services, zip code, the IHS assigned MRN, date of birth and/or social security number, if provided.

SECURITY SAFEGUARDS:

(Technical, Physical and Administrative):

1. Access to and use of the IHS PHR is limited to those individuals whose roles or official duties require such access. The IHS has established security procedures for this system to ensure that access is appropriately limited. Information security officers and system data stewards review and authorize data

access requests. The IHS regulates data access with security software that authenticates IHS PHR users and requires individual unique codes and passwords. The IHS provides information security training to all staff and instructs staff on the responsibility each person has for safeguarding data confidentiality. The IHS regularly updates security standards and procedures that are applied to systems and individuals supporting this program.

2. Physical access to computer rooms housing the PHR Administrative Records is restricted to authorized staff and protected by a variety of security devices. Unauthorized employees, contractors, and other staff are not allowed in computer rooms. The IHS uses contracted security personnel to provide physical security for the buildings housing computer systems and data centers.

3. Data transmissions between operational systems and IHS PHR are protected by telecommunications software and hardware as prescribed by IHS standards and practices. This includes firewalls, encryption, and other security measures necessary to safeguard data as it travels across the IHS-Wide Area Network.

4. Copies of back-up computer files are maintained at secure off-site locations.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the records disposition authority approved by the Archivist of the United States. Records from this system that are needed for audit purposes will be disposed of six (6) years after a user's account becomes inactive. Routine records will be disposed of when the agency determines they are no longer needed for administrative, legal, audit, or other operational purposes. These retention and disposal statements are pursuant to NARA General Records Schedules GRS 20, "Electronic Records", item 1c (found at Internet Web site address: <http://www.archives.gov/records-mgmt/grs/grs20.html>) and GRS 24, "Information Technology Operations and Management Records", item 6a, (found at Internet Web site address: <http://www.archives.gov/records-mgmt/grs/grs24.html>).

SYSTEM MANAGER(S) AND ADDRESS:

Officials responsible for policies and procedures: Director, Office of Information Technology (OIT) and Director, Office of Clinical and Preventive Services (OCPS), IHS, 801 Thompson Avenue, Rockville, MD

20852. Officials maintaining this system of records: The local IHS facility (address locations for IHS facilities are listed in IHS Appendix 1 of the IHS systems of records 09-17-0001 Medical, Health and Billings Records).

NOTIFICATION, RECORDS ACCESS AND CONTESTING RECORD PROCEDURES:

Individuals who wish to determine whether a PHR is being maintained under their name in this system, or wish to access and determine the accuracy of the contents of such records, have several options:

1. Submit a written request or apply in person to the IHS facility where the records are located. IHS facility location information can be found at <http://www.IHS.GOV>; or

2. Submit a written request or apply in person to the local Privacy Act official at their facility or Area office. Inquiries should include the patient's full name, user ID, date of birth and return address.

3. Individuals seeking to contest the accuracy of records in this system may also write or call their local IHS facility and/or submit to the local Privacy official the IHS 917 form (found at Internet Web address—http://www.hhs.gov/forms/IHS-917_508.pdf).

RECORD SOURCE CATEGORIES:

The sources of information for this system of records include the individuals covered by this notice and additional contributors, as listed below:

1. All individuals who successfully register for a PHR account; and

2. IHS staff and/or their contractors and subcontractors who may need to enter information into the system to initiate, support and maintain PHR electronic services for PHR users.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Approved: Dated: October 22, 2012.

Yvette Roubideaux,
Director, Indian Health Service.

[FR Doc. 2012-26517 Filed 10-26-12; 8:45 am]

BILLING CODE 4165-16-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Risk, Prevention and Health Behavior

Date: November 2, 2012.

Time: 10:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lee S Mann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, 301-435-0677, mannl@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 22, 2012.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26449 Filed 10-26-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Muscle Biology.

Date: November 16, 2012.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel F McDonald, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7814, Bethesda, MD 20892, (301) 435-1215, mcdonald@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Newborn Disorders.

Date: November 28, 2012.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ronald Adkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301-435-4511, ronald.adkins@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Gastrointestinal, Kidney and Toxicology/Pharmacology R15 and R21 Applications.

Date: November 29, 2012.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: 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; PA-12-139: Pilot and Feasibility Clinical Research Studies in Digestive Diseases and Nutrition.

Date: November 29, 2012.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Peter J Perrin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435-0682, perrinp@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 23, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26459 Filed 10-26-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bacterial Pathogens.

Date: November 5-6, 2012.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435-2398, pughjohn@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 10-260: Global Infectious Disease Training Program.

Date: November 7, 2012.

Time: 10:30 a.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: Kenneth M Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge, Room 3204, MSC 7808, Bethesda, MD 20892, 301-496-6980, izumikm@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 23, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26458 Filed 10-26-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Regulation of Blood Pressure.

Date: November 19, 2012.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892-7924, 301-435-0288, cjoyce@nhlbi.nih.gov.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Clinical Trials SEP Review.

Date: November 19, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Suite 7188, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892-7924, 301-435-0287, carolko@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 23, 2012.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26457 Filed 10-26-12; 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: AIDS and Related Research Integrated Review Group; AIDS Immunology and Pathogenesis Study Section.

Date: November 19, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301-443-5779, prasads@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Cell Biology.

Date: November 27-28, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301-435-1022, balasundaramd@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special: Pilot Clinical Studies in Nephrology and Urology.

Date: November 27-28, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301-435-1198, sahai@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: November 27-28, 2012.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington DC, 923 16th Street NW., Washington, DC 20006.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301-435-2365, aitouchea@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: HIV/AIDS Innovative Research Applications.

Date: November 27-28, 2012.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435-1166, roebuckk@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 22, 2012.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26450 Filed 10-26-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Skeletal Muscle.

Date: November 14-15, 2012.

Time: 8:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7814, Bethesda, MD 20892, 301-496-8551, ingrahamrh@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 19, 2012.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26451 Filed 10-26-12; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee:

National Institute on Aging Special Emphasis Panel; Juvenile Protective Factors.
Date: December 4, 2012.

Time: 12:00 p.m. to 3:00 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: Jeannette L. Johnson, Ph.D., Scientific Review Officer, National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2c212, Bethesda, MD 20892, 301-402-7705, JOHNSONJ9@NIA.NIH.GOV.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 18, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26454 Filed 10-26-12; 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; Molecular Neuroscience.

Date: November 5, 2012.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213-9887, hamelinc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Review of Behavioral and Social HIV/AIDS Applications.

Date: November 7, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Washington, DC—Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301-435-1775, rubertm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry, Biochemistry and Biophysics.

Date: November 8–9, 2012.

Time: 8:30 a.m. to 5:00 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: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301-435-1722, eissenstatma@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbial Pathogens AREA Review.

Date: November 9, 2012.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301-996-5819, zhengli@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 19, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26453 Filed 10-26-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biomedical Imaging and Engineering AREA Review.

Date: October 18, 2012.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lee Rosen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435-1171, rosenl@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 18, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012-26452 Filed 10-26-12; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2012-0968]

Merchant Marine Personnel Advisory Committee: Intercessional Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Working Group Meeting.

SUMMARY: A working group of the Merchant Marine Personnel Advisory Committee (MERPAC) will meet to discuss Task Statement 80, "Natural Gas-Fueled Vessels Other Than LNG Carriers." This meeting will be open to the public.

DATES: A MERPAC working group will meet on November 15 and November 16, 2012, from 8 a.m. until 4 p.m. Please note that the meeting may adjourn early if all business is finished. Written comments to be distributed to working

group members and placed on MERPAC's Web site are due by November 8, 2012.

ADDRESSES: The working group will meet at the STAR Center, 2 West Dixie Highway, Dania Beach, FL 33004-4312. For further information about the STAR Center hotel facilities or services for individuals with disabilities or to request special assistance, contact Mr. Graeme Holman at (954) 920-3222.

To facilitate public participation, we are inviting public comment on the issues to be considered by the work group, which are listed in the "Agenda" section below. Written comments must be identified by Docket No. USCG-2012-0968 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments (preferred method to avoid delays in processing).

- *Fax:* 202-493-2251.

- *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 202-366-9329.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to <http://www.regulations.gov>.

This notice may be viewed in our online docket, USCG-2012-0968, at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Rogers Henderson, Alternate Designated Federal Officer of MERPAC, telephone 202-372-1408. If you have any questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92-463).

MERPAC is an advisory committee established under the Secretary's

authority in section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the FACA. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee advises, consults with, and makes recommendations reflecting its independent judgment to the Secretary.

Agenda

Day 1

The agenda for the November 15, 2012, working group meeting is as follows:

- (1) Develop recommended experience requirements and national knowledge, understanding and proficiency (KUP) guidelines for mariners serving on vessels using natural gas as fuel;
- (2) Public comment period;
- (3) Discuss and prepare proposed recommendations for the full committee to consider with regards to Task Statement 80, concerning the development of national KUP guidelines for mariners serving on vessels using natural gas as fuel; and
- (4) Adjournment of meeting.

Day 2

The agenda for the November 16, 2012, working group meeting is as follows:

- (1) Continue discussion on proposed recommendations;
- (2) Public comment period;
- (3) Discuss and prepare final recommendations for the full committee to consider with regards to Task Statement 80, concerning the development of national KUP guidelines for mariners serving on vessels using natural gas as fuel; and
- (4) Adjournment of meeting.

Procedural: A copy of all meeting documentation, including the Task Statement, is available at <https://homeport.uscg.mil> by using these key strokes: Missions; Port and Waterways Safety; Advisory Committees; MERPAC; and then use the event key. Alternatively, you may contact Mr. Henderson as noted in the **ADDRESSES** section above.

Public oral comment periods will be held during the working group meeting. Speakers are requested to limit their comments to 3 minutes. Please note that

public oral comment periods may end before the prescribed ending time indicated following the last call for comments.

Contact Rogers Henderson as indicated above to register as a speaker.

Dated: October 23, 2012.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2012-26481 Filed 10-26-12; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5604-N-11]

Notice of Submission of Proposed Information Collection to OMB; Comment Request; HOME Investment Partnerships Program

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 28, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent to: William D. Kelleher, Reports Liaison Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7233, Washington, DC 20410-4500 or by email at William.Kelleher@hud.gov.

FOR FURTHER INFORMATION CONTACT: Timothy Colon, Office of Affordable Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7162, Washington, DC 20410-4500; telephone 202-402-4567 (this is not a toll-free number) or by email at Timothy.Colon@hud.gov.

SUPPLEMENTARY INFORMATION: The Notice will inform the public that the U.S. Department of Housing and Urban Development (HUD) will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35 as amended).

This Notice is soliciting comments from members of the public and affected

agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: HOME Investment Partnerships Program (HOME).

Description of Information Collection:

The information collected through HUD's Integrated Disbursement and Information System (IDIS) (§ 92.502) is used by HUD Field Offices, HUD Headquarters and HOME Program Participating Jurisdictions (PJs). The information on program funds committed and disbursed is used by HUD to track PJ performance and to determine compliance with the statutory 24-month commitment deadline and the regulatory 5-year expenditure deadline (§ 92.500(d)). The project-specific property, tenant, owner

and financial data is used to compile annual reports to Congress required at Section 284(b) of the Act, as well as to make program management decisions about how well program participants are achieving the statutory objectives of the HOME Program. Program management reports are generated by IDIS to provide data on the status of program participants' commitment and disbursement of HOME funds. These reports are provided to HUD staff as well as to HOME PJs.

Management reports required in conjunction with the Annual Performance Report (§ 92.509) are used by HUD Field Offices to assess the effectiveness of locally designed programs in meeting specific statutory requirements and by Headquarters in preparing the Annual Report to Congress. Specifically, these reports permit HUD to determine compliance with the requirement that PJs provide a 25% match for HOME funds expended during the Federal fiscal year (Section 220 of the Act) and that program income be used for HOME eligible activities (Section 219 of the Act), as well as the Women and Minority Business Enterprise requirements (§ 92.351(b)).

Financial, project, tenant and owner documentation is used to determine compliance with HOME Program cost limits (Section 212(e) of the Act), eligible activities (§ 92.205), and eligible costs (§ 92.206), as well as to determine whether program participants are

achieving the income targeting and affordability requirements of the Act (Sections 214 and 215). Other information collected under Subpart H (Other Federal Requirements) is primarily intended for local program management and is only viewed by HUD during routine monitoring visits. The written agreement with the owner for long-term obligation (§ 92.504) and tenant protections (§ 92.253) are required to ensure that the property owner complies with these important elements of the HOME Program and are also reviewed by HUD during monitoring visits. HUD reviews all other data collection requirements during monitoring to assure compliance with the requirements of Title II and other related laws and authorities.

HUD tracks PJ performance and compliance with the requirements of 24 CFR Parts 91 and 92. PJs use the required information in the execution of their program, and to gauge their own performance in relation to stated goals.

OMB Control Number: 2506-0171.

Agency Form Numbers: HUD 40093, SF 1199A, HUD 20755, HUD 40107, HUD 401107A.

Members of Affected Public: State and local government participating jurisdictions.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Reg. section	Paperwork requirement	Recordkeeping hours	Reporting hours	Number of jurisdictions	Total hours
§ 92.61	Program Description and Housing Strategy for Insular Areas.		10	4	40
§ 92.66	Reallocation—Insular Areas		3	4	12
§ 92.101	Consortia Designation		5	36	180
§ 92.200	Private-Public Partnership	2		594	1,188
§ 92.201	Distribution of Assistance	2		594	1,188
§ 92.201	State Designation of Local Recipients		1.5	51	76.5
§ 92.202	Site and Neighborhood Standards	2		594	1,188
§ 92.203	Income Determination	2		6,667	13,334
§ 92.206	Documentation required by HUD to be included in project file to determine project eligibility i.e., eligible uses and costs, cost limits, mixed-projects and value.	5		6,667	33,335
§ 92.216					
§ 92.217					
§ 92.218					
§ 92.250					
§ 92.252					
§ 92.254					
§ 92.206	Eligible Costs—Refinancing		4	100	400
§ 92.251	Written Property Standards	1		6,667	6,667
§ 92.253	Tenant Protections (including lease requirement)	5		6,667	33,335
§ 92.254	Homeownership—Median Purchase Price	5		80	400
§ 92.254	Homeownership—Alternative to Resale/recapture		5	100	500
§ 92.300	CHDO Identification	2		594	1,188
§ 92.300	Designation of CHDOs		1.5	480	720
§ 92.300	CHDO Project Assistance	2		594	1,188
§ 92.303	Tenant Participation Plan	10		4,171	41,710
§ 92.350	Equal Opportunity (including nondiscrimination, and minority and women business enterprise and minority outreach efforts).	5		6,667	33,335
§ 92.351	Affirmative Marketing	10		6,667	66,670

Reg. section	Paperwork requirement	Recordkeeping hours	Reporting hours	Number of jurisdictions	Total hours
§ 92.353	Displacement, relocation and acquisition (including tenant assistance policy).	5	.....	6,667	33,335
§ 92.354	Labor	2.5	.....	6,667	16,667.50
§ 92.355	Lead-based paint	1	.....	6,667	6,667
§ 92.357	Debarment and Suspension	1	.....	6,667	6,667
§ 92.501	Investment Partnership Agreement	0.5	0.5	598	598
§ 92.502	Homeownership and Rental Set-Up and Completion (IDIS).	.....	16	594	9,504
§ 92.502	Tenant-Based Rental Assistance Set-Up (IDIS) .....	.....	5.5	225	1,237.50
§ 92.502	IDIS Performance Measurement Set-Up and Completion Screens.	.....	21	6,671	140,091
§ 92.504	Participating Jurisdiction's Written Agreements	10	.....	6,667	66,670
§ 92.509	Management Reports—Annual Performance Reports.	.....	2.5	598	1,495
§ 92.509	Management Reports—FY Match Report .....	.....	0.75	594	445.5
§ 91.220	Describe the use of ADDI funds .....	.....	1	427	427
§ 91.220	Describe the plan for outreach .....	.....	1	427	427
§ 91.220	Describe plan to ensure suitability of families .....	.....	1	427	427
§ 91.604	Describe prior commitment .....	.....	1	37	37
§ 91.616	Confirm first-time homebuyer status	0.1	.....	427	43
§ 92.502	Input first-time homebuyer status (IDIS) .....	.....	0.2	427	85
Total Annual Respondents and Burden Hours .....		.....	.....	6,667	521,478

Estimate of Respondent Cost: 521,478 hours × \$42/hour = \$21,902,076

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 23, 2012.

Clifford Taffet,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2012-26557 Filed 10-26-12; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5603-N-79]

Notice of Submission of Proposed Information Collection to OMB; Title I Property Improvement and Manufactured Home Loan Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Title I loans are made by private-sector lenders and insured by HUD against loss from defaults. HUD uses this information to evaluate individual

lenders on their overall program performance. The information collected is used to determine insurance eligibility and claim eligibility.

DATES: *Comments Due Date:* November 28, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502-0328) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202-395-5806. Email: OIRA_Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at Colette.Pollard@hud.gov or telephone (202) 402-3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the

proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Title I Property Improvement and Manufactured Home Loan Programs.

OMB Approval Number: 2502-0328.

Form Numbers: HUD-637, 646, 27029, 27030, 55013, 55014, 56001-MH, 56002, 56002-MH, SF 3881, 92802, 56001.

Description of the need for the information and proposed use: Title I loans are made by private-sector lenders and insured by HUD against loss from defaults. HUD uses this information to evaluate individual lenders on their overall program performance. The information collected is used to determine insurance eligibility and claim eligibility.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	12,906	3,675		0.481		22,864

Total estimated burden hours: 22,864.
 Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 23, 2012.

Colette Pollard,

Department Reports Management Officer,
 Office of the Chief Information Officer.

[FR Doc. 2012-26561 Filed 10-26-12; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5608-N-04]

Notice of Proposed Information Collection: Healthy Homes and Lead Hazard Control Programs Data Collection—Progress Reporting

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The revised information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: December 28, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Michelle Miller, Reports Liaison Officer, Office of Healthy Homes and Lead Hazard Control, Department of Housing and Urban Development, 451 7th Street SW., Room 8236, Washington, DC 20410; michelle.m.miller@hud.gov.

FOR FURTHER INFORMATION CONTACT: Matthew Ammon, Deputy Director, Office of Healthy Homes and Lead Hazard Control, Office of Departmental and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email matthew.e.ammon@hud.gov, telephone 202-708-0310 ext. 4337; Fax 202-755-1000 (this is not a toll-free number) for other available information.

If you are a hearing- or speech-impaired person, you may reach the above telephone numbers through TTY by calling the toll-free Federal

Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

- Title of Proposal:* Healthy Homes and Lead Hazard Control Programs Data Collection Progress Reporting.
- OMB Control Number, if Applicable:* 2539-0008.
- Description of the Need for the Information and Proposed Use:* This data collection is designed to provide timely information to HUD regarding the implementation progress of the grantees on carrying out Healthy Homes and Lead Hazard Control Grant Programs. The information collection will also be used to provide Congress with status reports as required by the Residential Lead-Based Paint Hazard Reduction Act (Title X of the Housing and Community Development Act of 1992).

Agency Form Numbers, if Applicable: HUD-96006.
Members of Affected Public: State, tribal, local governments, not-for-profit institutions and for-profit firms located in the U.S.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection including Number of Respondents, Frequency of

Response, and Hours of Response: An estimation of the total number of respondents: 254; Frequency of response: 4; Hours per response: 8; Total Burden Hours: 8,128.

Status of the Proposed Information Collection: The obligation to respond to this information collection is mandatory.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 22, 2012.

Jon L. Gant,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 2012-26559 Filed 10-26-12; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R6-R-2012-N239; FF06R06000 134 FXRS1265066CCP0]

Lake Andes National Wildlife Refuge Complex, Lake Andes, SD; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; announcement of meeting; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce that our draft comprehensive conservation plan (CCP) and environmental assessment (EA) for the Lake Andes National Wildlife Refuge Complex (Complex), which includes Lake Andes NWR (National Wildlife Refuge), Karl E. Mundt NWR, and Lake Andes Wetland Management District, is available for public review and comment. The draft CCP/EA describes how the Service intends to manage these units for the next 15 years.

DATES: To ensure consideration, we must receive your written comments on the draft CCP/EA by November 28, 2012. Submit comments by one of the methods under **ADDRESSES**. We will hold a public meeting; see *Public Meeting* under **SUPPLEMENTARY INFORMATION** for the date, time, and location.

ADDRESSES: Send your comment or requests for more information by any of the following methods.

Email: bernardo_garza@fws.gov. Include "Lake Andes NWR Complex Draft CCP and EA" in the subject line of the message.

Fax: Attn: Bernardo Garza, 303-236-4792.

U.S. Mail: U.S. Fish and Wildlife Service, Division of Refuge Planning, P.O. Box 25486, Denver Federal Center, Denver, CO 80225.

In-Person Drop-off, Viewing, or Pickup: Call 303-236-4377 to make an appointment (necessary for view/pickup only) during regular business hours at 134 Union Boulevard, Suite 300, Lakewood, CO 80228.

Document Request: A copy of the CCP/EA may be obtained by writing to U.S. Fish and Wildlife Service, Division of Refuge Planning, 134 Union Boulevard, Suite 300, Lakewood, CO 80228; or by download from <http://mountain-prairie.fws.gov/planning>.

FOR FURTHER INFORMATION CONTACT: Bernardo Garza, 303-236-4377, (phone); 303-236-4792 (fax); or bernardo_garza@fws.gov (email); or David C. Lucas, 303-236-4366 (phone); 303-236-4792 (fax); or david_c_lucas@fws.gov.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for the Lake Andes NWR Complex. We started this process through a notice in the **Federal Register** (72 FR 27328; May, 15, 2007).

The Lake Andes NWR Complex encompasses three distinct units: Lake Andes NWR, Lake Andes Wetland Management District (WMD), and Karl E. Mundt NWR. The Complex lies within the Plains and Prairie Potholes Region (Region) in South Dakota, which is an ecological treasure of biological importance for wildlife, particularly waterfowl and other migratory birds. This Region alone produces approximately 50 percent of the continent's waterfowl population. Hunting and wildlife observation are the two most prevalent public uses on the Complex, followed by fishing and wildlife photography.

Lake Andes NWR was authorized by Executive Order in 1936 and formally established in 1939 to preserve an important piece of shallow water and prairie habitats for waterfowl and other water birds. This 5,639-acre refuge includes Lake Andes, a 4,700-acre lake created by the last ice age. The lake's shallow waters and surrounding grasslands provide optimal feeding,

resting, nesting, and brooding habitats for migratory waterfowl, shorebirds, and other waterbirds, and also songbirds. Water levels in the lake vary from 0 to 12 feet, depending entirely on climatic conditions and precipitation, and create a boom-and-bust fishery dependent on water quality and quantity.

The Federal Migratory Bird Conservation Fund finances the acquisition of waterfowl production areas (WPA) and conservation easements by providing the Department of Interior with monies to acquire migratory bird habitat. The 1958 amendment to the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718) authorized the Small Wetlands Acquisition Program and provided for the acquisition of lands in addition to the previously authorized habitats. Receipts from the sale of Duck Stamps are used to acquire habitat under the provisions of the Migratory Bird Treaty Act (16 U.S.C. 715). The Lake Andes WMD was established in 1958 to manage lands purchased under these two authorities to protect wetland and grassland habitat that is critical to our nation's duck population. The District manages 18,782 acres of grassland and wetland habitats in WPAs distributed within Aurora, Bon Homme, Brule, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, Lincoln, Turner, Union and Yankton Counties in southeastern South Dakota. All of these WPAs are open to hunting, fishing, wildlife observation, trapping, and other forms of compatible wildlife-dependent recreation. Approximately 15,000 people visit the WPAs of the District each year to engage in these types of outdoor recreational opportunities. Additionally, the District protects nearly 80,000 acres of grassland and wetland habitats through easements that prevent habitat degradation or loss on private lands.

Karl E. Mundt NWR was established in 1974, under the legislative authority of the Endangered Species Act (16 U.S.C. 1534), to protect an area hugging the eastern bank of the Missouri River in Gregory County, South Dakota, and Boyd County, Nebraska, that supports nearly 300 endangered bald eagles each winter. While being the first national wildlife refuge specifically established for the conservation of bald eagles, its riparian forests, prairie, and upland habitats provide important resting, feeding, breeding, and nesting sites for a wide array of neotropical migratory birds, indigenous turkey, and white-tailed deer. Haying, grazing, prescribed burning, invasive plant control, and prairie restoration are used to maintain riparian and upland habitats.

Cottonwoods and other native tree species have been planted in the past to anchor riverine banks in attempts to safeguard important bald eagle roosting sites. In order to reduce disturbance to bald eagles, this refuge is currently closed to public use, with the sole exception of occasional guided tours.

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 unit of the National Wildlife Refuge System (System). The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving the purposes for which their refuge and/or District was established and contributing toward the mission of the 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 the CCP for the Lake Andes NWR Complex in August 2006 by inviting the South Dakota Game Fish and Parks Department and six Native American tribal governments to participate in the planning process. The planning team was assembled in September, and the planning kickoff occurred in October of the same year. We developed a mailing list and sent a planning update to all the individuals and groups in that list. The planning update included basic information on the Complex, the planning process, how the public could provide comments and become involved in the planning process, and the dates, times, and places of the three public meetings we held throughout the Complex in November 2006. At that time and throughout the process, we requested public comments and considered and incorporated them in numerous ways. Comments we received cover topics such as invasive plant control on Complex lands, increased hunting and fishing

opportunities, improvement of the water quality and fisheries in Lake Andes, public access to Karl E. Mundt NWR, and Complex habitats' management tools (e.g., grazing, prescribed fire, tree plantings and/or removal, etc.). We have considered and evaluated all of these comments, with many incorporated into

the various alternatives addressed in the draft CCP and the EA.

CCP Alternatives We Are Considering

During the public scoping process with which we started work on this draft CCP, we, State of South Dakota wildlife officials, a representative of the

Yankton Sioux Tribe, and the public raised several issues. Our draft CCP addresses them. A full description of each alternative is in the EA. To address these issues, we developed and evaluated the following alternatives, summarized below.

	Alternative A: Current management (no action)	Alternative B: Modified management (proposed action)	Alternative C: Intensive management
Lake Andes' Water and Fishery Quality.	Continued Complex staff participation with and support of the efforts of the Charles Mix County Lake Andes Restoration Organization, such as sediment removal, soil conservation practices, and control of rough fish population.	Same as Alternative A. Additionally, the Complex's staff would investigate the possibility of installing additional fish screens on all tributaries to the lake and under both dikes, and a water delivery system to pump more water onto the lake's South Unit to improve sport fisheries.	Same as Alternative B. Additionally, the Complex's staff would seek new partnerships with landowners within the lake's watershed to help improve the lake's water and fisheries quality.
Invasive Plants Control	Continue control of invasive plants on infested wetlands, uplands, and riparian lands, using chemical, mechanical, and biological control methods once every 3 years on average.	Invasive plant infestations on Lake Andes NWR, Karl E. Mundt NWR, and high-priority WPAs would be treated yearly; all other infestations will be treated every 3 years on average.	The Complex's staff would pursue the formation of an invasive plant species "strike team" to more effectively control invasive plants. Prescribed fire would be used in a manner to help decrease cool-season grasses in favor of warm-season native grasses.
Monitoring and Research	Continue limited monitoring of habitat conditions and wildlife populations in wetlands, uplands, and riparian areas. Continue permitting research activities when deemed compatible with the purposes of the units of the Complex.	Similar to, but more proactive than, Alternative A. Additionally, monitoring studies and surveys will be expanded, and habitat restoration research led by universities would be actively encouraged and pursued.	Similar to, but even more proactive than, Alternative B. Complex staff would pursue funding and research opportunities with universities on habitat management and more effective surveying methodologies.
Prairie Restoration	Continued restoration and enhancement of tall and mixed-grass plant communities to create a mosaic of the required elements for waterfowl and other grass-nesting birds. Previously farmed lands would be restored to native prairie.	Similar to Alternative A, but the main focus would be the restoration of a high diversity of native grasses and forbs, along with the pursuance of the purchase of equipment for the collection of desirable plant seeds and construction of necessary infrastructure.	Same as Alternative B. However, with increased funding and staffing, the Complex staff would be able to treat and restore many more acres of land than in Alternative B.
Public Access to Wildlife-Dependent Recreation.	Karl E. Mundt NWR to remain closed to most activities, with the exception of limited staff-guided tours. All "Big 6" wildlife-dependent recreational opportunities to continue on all waterfowl production areas in the Complex, as well as in the Lake Andes' Owens Bay and Center Units.	Similar to Alternative A, except that the staff would study and open areas currently closed to hunting, as well as provide special hunts, if it is deemed compatible and suitable. Boat launching ramps for the lake's Center and South Units would be improved. The addition of an outdoor recreation planner and the remodeling of the headquarters building to include a visitor center and environmental education classroom would allow the expansion of environmental education and interpretation opportunities. Currently closed portions of Lake Andes and Karl E. Mundt NWRs would be opened to wildlife observation and photography, and observation and photography blinds would be provided for the public at appropriate locations on the Complex.	Same as Alternative B. Additionally, the staff would develop and execute an outreach plan to expand environmental education and interpretation opportunities throughout the Complex. Also, we would build an observation tower and develop a self-guiding auto tour route on Lake Andes NWR to provide more opportunities for wildlife observation and photography.

	Alternative A: Current management (no action)	Alternative B: Modified management (proposed action)	Alternative C: Intensive management
Funding, Infrastructure, and Partnerships.	No new or added infrastructure or equipment or vehicles, which would be replaced only as needed. Current staffing and funding would preclude pursuance of new partnerships.	Staffing and funding would need to be expanded to carry out this plan. The existing headquarters building would need to be remodeled to provide a visitor center and educational facilities, and to accommodate new employees. The maintenance shop and storage buildings would need to be remodeled to correct deficiencies and accommodate expanded staffing and equipment.	Staffing and funding would be expanded beyond Alternatives A and B to accomplish this alternative. Instead of remodeling the headquarters building, we would have to build a new visitor center, as well as seed drying and storage facilities.

Public Meeting

Opportunity for public input will be provided at the following open house public meeting.

Date	Time	Location
October 30, 2012	7–9 p.m	Lake Andes Community Center, 207 West Main Street, Lake Andes, SD 57356.

Next Steps

After the public reviews and provides comments on the draft CCP and EA, the planning team will present this document, along with a summary of all substantive public comments, to the Regional Director. The Regional Director will consider the environmental effects of each alternative, including information gathered during public review, and will select a preferred alternative for the draft CCP and EA. If the Regional Director finds that no significant impacts would occur, the Regional Director’s decision will be disclosed in a finding of no significant impact included in the final CCP. If the Regional Director finds a significant impact would occur, an environmental impact statement will be prepared. If approved, the action in the preferred alternative will compose the final CCP.

Public Availability of Comments

All public comment information provided voluntarily by mail, by phone, or at meetings (e.g., names, addresses, letters of comment, input recorded during meetings) becomes part of the official public record. If requested under the Freedom of Information Act by a private citizen or organization, the

Service may provide copies of such information.

Authority

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 et seq.); NEPA Regulations (40 CFR parts 1500–1508, 43 CFR part 46); other appropriate Federal laws and regulations; Executive Order 12996; the National Wildlife Refuge System Improvement Act of 1997; and Service policies and procedures for compliance with those laws and regulations.

Dated: October 11, 2012.
Noreen E. Walsh,
Deputy Regional Director, Mountain-Prairie Region, U.S. Fish and Wildlife Service.
 [FR Doc. 2012–26482 Filed 10–26–12; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–11166; 2410–OYC]

Notice of Continuation of Concession Contract

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the terms of the listed concession contract, the National Park Service hereby gives public notice that it proposed to continue the concession contract listed below for a period not-to-exceed 1 year from the date of contract expiration.

DATES: *Effective Date:* October 1, 2012.

FOR FURTHER INFORMATION CONTACT: Jo A. Pendry, Chief, Commercial Services Program, National Park Service, 1201 Eye Street NW., 11th Floor, Washington, DC 20005, Telephone (202) 513–7156.

SUPPLEMENTARY INFORMATION: The contract listed below will expire by its terms on September 30, 2012. Pursuant to 36 CFR 51.23, the National Park Service has determined that the proposed continuation is necessary to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption.

Conc ID No.	Concessioner name	Park
LAKE004–98	Lake Mead Cruises dba Lake Mead Ferry Service, Inc	Lake Mead National Recreation Area.

Dated: September 26, 2012.

Lena McDowall,

Associate Director, Business Services.

[FR Doc. 2012-26466 Filed 10-26-12; 8:45 am]

BILLING CODE 4312-53-P

INTERNATIONAL TRADE COMMISSION

[Docket No. 2919]

Certain Hydroxyprogesterone Caproate and Products Containing the Same; Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade
Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Hydroxyprogesterone Caproate and Products Containing the Same*, DN 2919; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of K-V Pharmaceutical Company on October 23, 2012. The complaint alleges violations of section 337 of the Tariff

Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain hydroxyprogesterone caproate and products containing the same. The complaint names as respondents New England Compounding Pharmacy, Inc. of MA; Alwan Pharmacy & Compounding Center of IL; Avella Specialty Pharmacy of AZ; Bellevue Pharmacy of MO; Betapharma (Shanghai) Co., Ltd. of China; Boudreaux's Specialty Compounding of LA; California Pharmacy & Compounding Center of CA; College Pharmacy of CO; Compound Care Pharmacy of KY; Compounding Solutions of AL; Daniel Drug of TX; Five-Star Compounding Pharmacy of IA; Fagron, Inc. of MN; Hawthorne Pharmacy of SC; Health Dimensions Compounding Pharmacy of MI; Hopewell Pharmacy & Compounding Center of NJ; Hubei Gedian Humanwell Pharmaceutical Co., Ltd. of China; Hubei Saibo Chemical Co., Ltd. of China; Jinan Haohua Industry Co., Ltd. of China; Kelley-Ross & Associates, Inc. of WA; Lacey Drug Company/Marietta Medical Center of GA; Letco Medical of AL; Medisca, Inc. of NV; Owens Healthcare Compounding Pharmacy of CA; Partners In Care, Inc. of GA; People's Custom Rx of TN; Pharmica Corporation of KY; Prescription Compounds of LA; Rye Beach Pharmacy of NY; Sherry's Drug Compounding and Natural Pharmacy of OK; Shanghai Jinhong Biopharmaceutical, Ltd. of China; Stark Pharmacy of KS; The Compounder Pharmacy of IL; The Compounding Shoppe of AL; The Medicine Shoppe Pharmacy of IL; Triangle Compounding Pharmacy of NC; Trinity Healthcare Medical Center of FL; Universal Arts Pharmacy of FL; Village Compounding of TX; Wedgewood Pharmacy of NJ; Westmoreland Pharmacy & Compounding of IN; Williams Bros. Healthcare Pharmacy of IN; Wilson Pharmacy, Inc. of TN; Women's International Pharmacy of WI; Wuhan Xianghe Pharmaceutical, Co., Ltd. of China; and Xianju Hongyan Pharmaceutical Chemicals Co., Ltd. of China.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in

the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 2919") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such

treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: October 24, 2012.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012-26510 Filed 10-26-12; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-805]

Certain Devices for Improving Uniformity Used in a Backlight Module and Components Thereof and Products Containing Same; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order against certain devices for improving uniformity used in a backlight module and components thereof and products containing same imported by respondents LG Electronics, Inc. and LG Display Co., Ltd. both of Seoul, Republic of South Korea (collectively "LG") and cease and desist orders against LG.

FOR FURTHER INFORMATION CONTACT:

Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-2301. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S.

International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

Unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on October 22, 2012. Comments should address whether issuance of a limited exclusion order and cease and desist orders in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the recommended orders are used in the United States;
- (ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the limited exclusion order and cease and desist orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on November 21, 2012.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-805") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

Issued: October 24, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012-26513 Filed 10-26-12; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-856]

Certain Wireless Communication Devices, Portable Music and Data Processing Devices, Computers, and Components Thereof

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 5) terminating the above-captioned investigation based on withdrawal of the complaint. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2661. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 21, 2012, based on a complaint filed by Motorola Mobility LLC, of Libertyville, Illinois; Motorola Mobility Ireland, of Hamilton, Bermuda; and Motorola Mobility International of Hamilton, Bermuda (collectively, (“Motorola”). 77 FR 58576 (Sept. 21, 2012). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), by reason of infringement of seven United States patents. The notice of investigation names Apple Inc. of Cupertino, California (“Apple”), as the only respondent.

On October 1, 2012, Motorola filed an unopposed motion to withdraw its complaint and terminate the investigation. On October 2, 2012, the ALJ granted Motorola’s motion and

issued the subject ID (Order No. 5), terminating the investigation. No petitions for review of the ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

Issued: October 23, 2012.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2012-26468 Filed 10-26-12; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Overpayment Recovery Questionnaire

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers’ Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, “Overpayment Recovery Questionnaire,” to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before November 28, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, <http://www.reginfo.gov/public/do/PRAMain>, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202-395-6881 (this is not a toll-free number), email: OIRA_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at DOL_PRA_PUBLIC@dol.gov.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: Data obtained on the Overpayment Recovery Questionnaire, Form OWCP-20, is necessary to determine whether the recovery of any Black Lung, Energy Employees Occupational Illness Compensation Program Act or Federal Employees’ Compensation overpayment may be waived, compromised, terminated, or collected in full. While not affecting the burden, this ICR has been characterized as a revision because the agency has reformatted elements of Form OWCP-20 (e.g., replaced an obsolete logo with the DOL Seal and removed references to the no longer existent Employment Standards Administration).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240-0051. The current approval is scheduled to expire on November 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on July 10, 2012 (77 FR 40645).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1240-0051. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OWCP.

Title of Collection: Overpayment Recovery Questionnaire.

OMB Control Number: 1240–0051.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 3,088.

Total Estimated Number of Responses: 3,088.

Total Estimated Annual Burden Hours: 3,088.

Total Estimated Annual Other Costs Burden: \$1,482.

Dated: October 22, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–26529 Filed 10–26–12; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF LABOR

Office of the Secretary

Labor Advisory Committee for Trade Negotiations and Trade Policy

ACTION: Meeting notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiation and Trade Policy.

Date, Time, Place: November 13, 2012; 10:00 a.m.–12:00 p.m.; U.S. Department of Labor, Secretary's Conference Room, 200 Constitution Ave. NW., Washington, DC.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f), it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's

negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Anne M. Zollner, Chief, Trade Policy and Negotiations Division; Phone: (202) 693–4890.

Signed at Washington, DC, the 19th day of October 2012.

Carol Pier,

Acting Deputy Undersecretary, International Affairs.

[FR Doc. 2012–26536 Filed 10–26–12; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,490]

Novartis Pharmaceuticals Corporation, Primary Care Business Unit (Sales) Division, East Operating Unit, Including On-Site Leased Workers From Inventiv Health, Ashfield Healthcare, and Pro Unlimited, East Hanover, NJ and Off-Site Workers of Novartis Pharmaceuticals Corporation, Primary Care Business Unit (Sales) Division, East Operating Unit in Illinois Who Report to East Hanover, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 6, 2012, applicable to workers of Novartis Pharmaceuticals Corporation, Primary Care Business Unit (Sales) Division, East Hanover, New Jersey. The Department's notice of determination was published in the **Federal Register** on January 24, 2012 (77 FR 3501).

At the request of a worker, the Department reviewed the certification for workers of the subject firm.

New information shows that the Primary Care Business Unit (Sales) Division, East Hanover, New Jersey is part of the East Operating Unit.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports. The amended notice applicable to TA–W–80,490 is hereby issued as follows:

All workers of Novartis Pharmaceuticals Corporation, Primary Care Business Unit (Sales) Division, East Operating Unit, including on-site leased workers from Inventiv Health, Ashfield Healthcare, and Pro

Unlimited, East Hanover, New Jersey, and off-site workers of Novartis Pharmaceuticals Corporation, Primary Care Business Unit (Sales) Division, East Operating Unit in Illinois who report to East Hanover, New Jersey, who became totally or partially separated from employment on or after October 3, 2010, through January 6, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 17th day of October 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–26486 Filed 10–26–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,827]

Verizon Business Networks Services, Inc., Senior Analyst, Service Program Delivery (SA–SPD), Including Workers Whose Wages Were Paid Under MCI Communication Services, Inc., Hilliard, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (“Act”), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 18, 2012, applicable to workers and former workers of Verizon Business Network Services, Inc., Senior Analyst–Service Program Delivery, Hilliard, Ohio (subject firm). Workers at the subject firm are engaged in activities related to telecommunications services.

Specifically, the worker group supplies service program delivery services.

At the request of the State of Ohio, the Department reviewed the certification for workers of the subject firm. New information provided by company officials show that some workers of the subject firm had wages paid under the name MCI Communication Services, Inc.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in the supply of services to a foreign country.

The amended notice applicable to TA–W–81,827 is hereby issued as follows:

All workers of Verizon Business Network Services, Inc., Senior Analyst-Service Program Delivery (SA-SPD), including workers whose wages were paid under MCI Communication Services, Inc., Hilliard, Ohio (TA-W-81,827), who became totally or partially separated from employment on or after July 20, 2011 through September 18, 2014, and all workers in the group threatened with total or partial separation from employment on September 18, 2012 through September 18, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 17th day of October 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012-26491 Filed 10-26-12; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-81,385]

Pfizer Therapeutic Research, Pfizer Worldwide Research & Development Division, Formerly Known as Warner Lambert Company, Central Nervous System Research Unit (Currently Known as Neuroscience Research Unit), Global External Supply Department, Pharmaceutical Development Department, Groton, Connecticut; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor (Department) issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 13, 2012, applicable to workers of Pfizer Therapeutic Research, Pfizer Worldwide Research & Development Division, formerly known as Warner Lambert Company, Central Nervous System Research Unit, Global External Supply Department, Pharmaceutical Development Department, Groton, Connecticut (Pfizer).

At the request of the state workforce office, the Department reviewed the certification for workers of Pfizer.

The Department has confirmed that the Central Nervous System Research Unit was renamed the Neuroscience Research Unit.

In order to ensure proper worker group coverage, the Department is amending the certification for TA-W-81,385 to reflect the correct name of the subject worker group.

The amended notice applicable to TA-W-81,385 is hereby issued as follows:

All workers of Pfizer Therapeutic Research, Pfizer Worldwide Research & Development Division, formerly known as Warner Lambert Company, Central Nervous System Research Unit (currently known as Neuroscience Research Unit), Global External Supply Department, Pharmaceutical Development Department, Groton, Connecticut, who became totally or partially separated from employment on or after February 27, 2011 through June 13, 2014, and all workers in the group threatened with total or partial separation from employment on June 13, 2012 through June 13, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 12th day of October 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012-26493 Filed 10-26-12; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-73,441H]

Quad Graphics, Inc., Including Workers Whose Wages Were Reported Under Quad Graphics Printing Corp. and Quad Logistics Services, Effingham, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 27, 2011, applicable to workers and former workers of Quad Graphics, Inc., Sussex, Wisconsin (TA-W-73,441). Workers are engaged in activities related to the production of magazines and catalogues.

At the request of the State of Illinois, the Department reviewed the certification for workers of the subject firm.

New information shows that workers at an Effingham, Illinois facility operated in conjunction with the Sussex, Wisconsin facility and had wages reported under Quad Graphics, Inc., Quad Graphics Printing Corp., and Quad Logistics Services.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by an acquisition from a foreign country of production of articles like or

directly competitive with those produced by the workers.

The amended notice applicable to TA-W-73,441 is hereby issued as follows:

All workers of Quad Graphics, Inc., including workers whose wages were reported under Quad Graphics Printing Corp. and Quad Logistics Services (TA-W-73,441H), who became totally or partially separated from employment on or after February 2, 2009, through September 27, 2013, and all workers in the group threatened with total or partial separation from employment on September 27, 2011 through September 27, 2013, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 17th day of October 2012

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012-26492 Filed 10-26-12; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA-W) number issued during the period of October 9, 2012 through October 12, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one

or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have

become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
81,905	Welded Tube—Berkeley, Snelling and Aerotek	Huger, SC	August 20, 2011.
81,931	Lamico, Inc., Lamico Mobility Products LLC	Oshkosh, WI	August 23, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
81,911	Exide Technologies, Transportation Division, Aerotek and Express Employment.	Frisco, TX	August 22, 2011.

TA-W No.	Subject firm	Location	Impact date
81,970	WellPoint, Inc., Anthem Blue Cross, Post Service (PSSCR), WellPoint Co's of California.	Newbury Park, CA	September 6, 2011.
81,971	Direct Energy, Residential Div., Back Office Customer Support, Primary Services & Inceed.	Tulsa, OK	September 12, 2011.
81,972	Pharmetrics, An IMS Health, Inc. Subsidiary, United States Development Group.	Watertown, MA	September 14, 2011.
81,985	Constellation Homebuilder Systems, Fast Division, Constellation Software, Inc.	Redmond, WA	September 14, 2011.
82,011	Winzen Film, Inc, Super Sack Bag, Inc	Sulphur Springs, TX	September 18, 2011.
82,032	UCM Magnesia, Inc	Cherokee, AL	October 2, 2011.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
81,887	Pearson Education, Inc., Pearson Imaging Center	Glenview, IL	August 9, 2011.

The following certifications have been issued. The requirements of Section 222(c) (downstream producer for a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA-W No.	Subject firm	Location	Impact date
81,874	Parkway Knitting Co., Inc	Hillsville, VA	July 23, 2011.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility

criteria for worker adjustment assistance have not been met for the reasons specified. The investigation revealed that the criteria under paragraphs (a)(2)(A)(i)

(decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA-W No.	Subject firm	Location	Impact date
81,838	Flsmidth Spokane, Inc., Flsmidth, Inc., Humanix Staffing Services ...	Spokane, WA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA-W No.	Subject firm	Location	Impact date
81,907	Mohawk Industries, Inc., Yarn Division, Oak River South Plant	Bennettsville, SC	
81,910	IPS Worldwide, LLC	Cumberland, MD	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and

on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA-W No.	Subject firm	Location	Impact date
82,028	PerkinElmer, Inc	Downers Grove, IL	
82,045	Open Text, Inc	Melbourne, FL	
82,057	The Hartford Financial Services Group, Inc., Commercial/Claims/Med Ops/Auto Managed Care.	Tampa, FL	
82,058	The Hartford Financial Services Group, Inc., Commercial/Claims/Med Ops/Auto Managed Care.	Indianapolis, IN	
82,059	The Hartford Financial Services Group, Inc, Commercial/Claims/Med Ops/Auto Managed Care.	Hartford, CT	

I hereby certify that the aforementioned determinations were issued during the period of October 9, 2012 through October 12, 2012. These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888-365-6822.

Dated: October 18, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012-26488 Filed 10-26-12; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 8, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 8, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N-5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 16th day of October 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[13 TAA petitions instituted between 10/9/12 and 10/12/12]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82061	Platinum Equality, Matrix Customer Service (Workers)	Atmore, AL	10/09/12	10/05/12
82062	Pemco World Air Services (State/One-Stop)	Florence, KY	10/09/12	10/05/12
82063	Fashion Tech, Inc. (Company)	Portland, OR	10/09/12	10/08/12
82064	AT&T Services, Inc./IT Operations (Company)	Dallas, TX	10/09/12	10/05/12
82065	Mersen USA St. Mary's PA. Corp. (Company)	St. Marys, PA	10/10/12	09/24/12
82066	Gatehouse Media, Creative Services Department/Graphic Design Department (State/One-Stop)	Framingham, MA	10/10/12	09/18/12
82067	Dal-Tile International (Workers)	Olean, NY	10/10/12	10/09/12
82068	Stanadyne Corporation (State/One-Stop)	Windsor, CT	10/10/12	10/10/12
82069	UTC Aerospace Systems (formerly Hamilton Sundstrand) (Union)	Windsor Locks, CT	10/10/12	10/09/12
82070	The Great Atlantic & Pacific Tea Company, Accounting Clerks (Company)	Montvale, NJ	10/11/12	10/10/12
82071	Covidien—Medical Supplies (Company)	Commerce, TX	10/11/12	10/10/12
82072	The Denver Post (Union)	Denver, CO	10/12/12	10/11/12
82073	Sartorius Stedim SUS, Inc. (Company)	Concord, CA	10/12/12	10/12/12

[FR Doc. 2012-26487 Filed 10-26-12; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Renewal of the Bureau of Labor Statistics Data Users Advisory Committee

The Secretary of Labor is announcing the renewal of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor

Statistics Data Users Advisory Committee (the "Committee") is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic and government communities, on matters related to the analysis, dissemination, and use of the Bureau's statistics, on its published reports, and

on gaps between or the need for new Bureau statistics.

The Committee will function solely as an advisory body to the BLS, on technical topics selected by the BLS.

The Committee is responsible for providing the Commissioner of Labor Statistics: (1) The priorities of data users; (2) suggestions concerning the addition of new programs, changes in the emphasis of existing programs or cessation of obsolete programs; and (3) advice on potential innovations in data analysis, dissemination and presentation. The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee will not exceed 25 members. Committee members are nominated by the Commissioner of Labor Statistics and approved by the Secretary of Labor. Membership of the Committee will represent a balance of expertise across a broad range of BLS program areas, including employment and unemployment statistics, occupational safety and health statistics, compensation measures, price indexes, and productivity measures; or other areas related to the subject matter of BLS programs. All committee members will have extensive research or practical experience using BLS data.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Cheryl Kerr, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202-691-7808, email: kerr.cheryl@bls.gov.

Signed at Washington, DC this 24th day of October 2012.

Kimberley D. Hill,

*Chief, Division of Management Systems,
Bureau of Labor Statistics.*

[FR Doc. 2012-26502 Filed 10-26-12; 8:45 am]

BILLING CODE P

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Emergency Reinstatement of Previously Approved Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice of emergency reinstatement.

SUMMARY: The Merit Systems Protection Board (MSPB) is requesting approval from the Office of Management and Budget (OMB) to reinstate Information Collection Request (ICR) 3124-0009, E-Appeal/US Merit Systems Protection Board Appeal Form which expired on March 31, 2012. This ICR is necessary for individuals who file appeals with MSPB. The form serves as a guide to appellants in providing all needed information. The MSPB is requesting Emergency Reinstatement approval from OMB by November 9, 2012. The MSPB Appeal Form (Form 185) has been revised. At this time, MSPB is requesting public comments on Form 185, which is available for review on MSPB's Web site at <http://www.mspb.gov>.

DATES: Written comments must be received on or before November 5, 2012.

ADDRESSES: Submit comments on the collection of information to the Office of Management and Budget, Attn: Desk Officer for MSPB, via fax at 202-395-6974 or email at OIRA_Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Please contact William D. Spencer, Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; telephone 202-653-7200; fax 202-653-7130; or email mspb@mspb.gov. Persons without internet access may request a paper copy of the MSPB Appeal Form from the Office of the Clerk of the Board.

Revised MSPB Appeal Form 185

The instructions at the beginning of the written appeal form have been streamlined and reorganized, with a focus on more clearly setting forth the Board's review authority; the option to file an appeal electronically; the time limits for filing an appeal; and where to file an appeal. In addition, the Privacy Act Statement and Public Reporting Burden notice have been moved to the end of the form.

Part 1—Appellant and Agency Information: This section remains largely unchanged, apart from the inclusion of some updated language (such as "cell" under telephone numbers in box 3). In box 11, "Hearing," the sentence, "If you choose to have a hearing, the administrative judge will notify you when and where it is to be held[.]" has been eliminated, due to its potentially misleading character (the right to a hearing is conditional on a finding of jurisdiction). The appellant's certification that "all of the statements made in this form and any attachments are true, complete, and accurate * * *" has been moved from box 12, to its own section at the end of the form.

Part 2—Agency Personnel Action or Decision (non-retirement): The introductory language to this section has been altered, reflecting the following change in the overall organization of the form: whereas the current version solicits information about non-retirement actions in this part and then subsequently cites to affirmative defenses to such actions and particular classes of such actions (IRA, USERRA, and VEOA) in two separate sections, the revised form addresses all non-retirement actions and associated claims in Part 2. The present Part 4, which invites appellants to check boxes next to various affirmative defense claims, a

frequent source of confusion, has been eliminated. Information regarding such claims, along with the descriptions of IRA, USERRA, and VEOA appeals, currently contained in Part 5, has been placed together in a new Appendix A and referenced at the beginning of this revised section, which provides as follows:

Complete this part if you are appealing a Federal agency personnel action or decision other than a decision addressing your retirement rights or benefits. Certain actions that might not otherwise be appealable to the Board may be challenged as an individual right of action (IRA) appeal under the Whistleblower Protection Act (WPA) or as an appeal under the Uniformed Services Employment and Reemployment Rights Act (USERRA) or the Veterans Employment Opportunities Act (VEOA). An explanation of these three types of appeals is provided in Appendix A * * *

and in the new box 16, which provides as follows:

Explain briefly why you think the agency was wrong in taking this action. In challenging such an action, you may choose to allege that the agency engaged in harmful procedural error, committed a prohibited practice, or engaged in one of the other claims listed in Appendix A. Attach the agency's proposal letter, decision letter, and SF-50, if available. Attach additional sheets if necessary (bearing in mind that there will be later opportunities to supplement your filings).

As a result of this change, current boxes 13a, 14, 15, 16, 17, and 18 have been replaced with revised boxes 13, 14, 15, and 16. Current box 19, asking the appellant "[w]hat action would you like the Board to take in this case [.]" has been eliminated, as superfluous. Moreover, the language of current box 20 (revised box 17), has been changed to eliminate the request for information about the agency against which any negotiated grievance has been filed (as this agency will almost certainly be the same as the one having taken the personnel action itself). Finally, revised boxes 18 and 19, requesting information related to exhaustion of remedies in IRA and USERRA/VEOA appeals, respectively, replace current boxes 31, 32, and 33.

Part 3—OPM or Agency Retirement Decision: This section remains largely unchanged. Current boxes 26 and 27, requesting information regarding if and when a final retirement decision has been received, have been consolidated into revised box 24. Current box 29, asking the appellant "[w]hat action

would you like the Board to take in this case[.]” has been eliminated, as superfluous.

Part 4—Designation of Representative: As previously noted, the current Part 4, soliciting information about affirmative defenses, has been eliminated. The revised Part 4 replaces the current Part 6, with some slight changes in language.

Part 5—Certification: As previously noted, the current Part 5, providing information about IRA, USERRA, and VEOA appeals, has been eliminated. The revised Part 5 contains the appellant certification, presently included in Part 1 of the form, along with the Privacy Act Statement and Public Reporting Burden.

Appendix A and B: As previously noted, Appendix A provides information regarding affirmative defenses and IRA, USERRA, and VEOA

appeals, as well as the special time limits for filing such appeals, making this material available to those to whom it applies, while otherwise streamlining and simplifying the appeal form itself. Appendix B provides full contact information for each of the Board’s regional offices, together with their corresponding geographic areas.

Estimated Reporting Burden

In accordance with the requirements of the Paperwork Reduction Act of 1995, MSPB is soliciting comments on the public reporting burden for this information collection. The public reporting burden for this collection of information is estimated to vary from 20 minutes to 4 hours, with an average of 60 minutes per response, including time for reviewing the form and instructions, searching existing data sources,

gathering the data necessary, and completing and reviewing the collection of information.

Specifically, MSPB invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of MSPB’s functions, including whether the information will have practical utility; (2) the accuracy of MSPB’s estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

ESTIMATED ANNUAL REPORTING BURDEN

5 CFR parts	Annual number of respondents	Frequency per response	Total annual responses	Hours per response (average)	Total hours
1201, 1208, and 1209	7,150	1	7,150	1.0	7,150

William D. Spencer,
Clerk of the Board.

[FR Doc. 2012–26534 Filed 10–26–12; 8:45 am]
BILLING CODE 7400–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the National Council on the Humanities will meet for the following purposes: To advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended) and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

DATES: The meeting will be held on Thursday and Friday, November 15–16,

2012, each day from 9:00 a.m. until adjourned.

ADDRESSES: The meeting will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506. See Supplementary Information section for room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities’ TDD terminal at (202) 606–8282. Please provide advance notice of any special needs or accommodations, including for a sign language interpreter.

SUPPLEMENTARY INFORMATION: The Committee meetings of the National Council for the Humanities will be held on November 15, 2012, as follows: the policy discussion session (open to the public) will convene at 9:00 a.m. until approximately 10:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 10:30 a.m. until adjourned.

Challenge Grants & Federal/State Partnership: Room 507
Education Programs: Room M–07
Preservation and Access: Room 415
Public Programs: Room 421
Research Programs: Room 315

The Plenary Session of the National Council for the Humanities will convene on November 16, 2012 at 9:00 a.m. in Room M–09. The agenda for the morning session (open to the public) will be as follows:

- A. Minutes of the Previous Meeting
- B. Reports
 - 1. Introductory Remarks
 - 2. Presentation by Dr. Barbara Oberg, Professor at Princeton University and Editor of *The Papers of Thomas Jefferson*
 - 3. Staff Report
 - 4. Congressional Report
 - 5. Budget Report
 - 6. Reports on Policy and General Matters
 - a. Challenge Grants & Federal/State Partnership
 - b. Education Programs
 - c. Preservation and Access
 - d. Public Programs
 - e. Research Programs

The remainder of the Plenary Session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5, U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the

agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: October 23, 2012.

Lisette Voyatzis,
Committee Management Officer.

[FR Doc. 2012-26545 Filed 10-26-12; 8:45 am]

BILLING CODE 7536-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2013-8 and CP2013-8;
Order No. 1511]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 21 to the competitive product list, including a related contract. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 1, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Notice of Filings
- III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 21 to the competitive product list.¹ The

¹ Request of the United States Postal Service to Add First-Class Package Service Contract 21 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 22, 2012 (Request).

Postal Service asserts that First-Class Package Service Contract 21 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2013-8.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2013-8.

Request. To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 11-6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on the day that the Commission issues all regulatory approvals. *Id.* at 2. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the

redacted portions of the contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2013-8 and CP2013-8 to consider the Request pertaining to the proposed First-Class Package Service Contract 21 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than November 1, 2012. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2013-8 and CP2013-8 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than November 1, 2012.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,
Secretary.

[FR Doc. 2012-26474 Filed 10-26-12; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2013-11 and CP2013-11;
Order No. 1514]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 24 to the competitive product list, including a related contract. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 1, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Notice of Filings
- III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 24 to the competitive product list.¹ The Postal Service asserts that First-Class Package Service Contract 24 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2013-11.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2013-11.

Request. To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 11-6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;

¹ Request of the United States Postal Service to Add First-Class Package Service Contract 24 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 22, 2012 (Request).

- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;

- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on the day that the Commission issues all regulatory approvals. *Id.* at 2. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2013-11 and CP2013-11 to consider the Request pertaining to the proposed First-Class Package Service Contract 24 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart

B. Comments are due no later than November 1, 2012. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2013-11 and CP2013-11 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than November 1, 2012.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,
Secretary.

[FR Doc. 2012-26515 Filed 10-26-12; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2013-10 and CP2013-10;
Order No. 1513]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 23 to the competitive product list, including a related contract. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 1, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Notice of Filings
- III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 23 to the competitive product list.¹ The Postal Service asserts that First-Class Package Service Contract 23 is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2013–10.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2013–10.

Request. To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors’ Decision No. 11–6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service’s total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

¹ Request of the United States Postal Service to Add First-Class Package Service Contract 23 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors’ Decision, Contract, and Supporting Data, October 22, 2012 (Request).

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on the day that the Commission issues all regulatory approvals. *Id.* at 2. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days’ written notice to the other party. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer’s mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2013–10 and CP2013–10 to consider the Request pertaining to the proposed First-Class Package Service Contract 23 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service’s filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than November 1, 2012. The public portions of these filings can be accessed via the Commission’s Web site (<http://www.prc.gov>).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2013–10 and CP2013–10 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than November 1, 2012.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission,
Shoshana M. Grove,
Secretary.

[FR Doc. 2012–26514 Filed 10–26–12; 8:45 am]
BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2013–9 and CP2013–9;
Order No. 1512]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add First-Class Package Service Contract 22 to the competitive product list, including a related contract. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 1, 2012.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Notice of Filings
- III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 22 to the competitive product list.¹ The Postal Service asserts that First-Class Package Service Contract 22 is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The

¹ Request of the United States Postal Service to Add First-Class Package Service Contract 22 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors’ Decision, Contract, and Supporting Data, October 22, 2012 (Request).

Request has been assigned Docket No. MC2013–9.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2013–9.

Request. To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 11–6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on the day that the Commission issues all regulatory approvals. *Id.* at 2. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *Id.* Attachment D.

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 3. This information includes the price structure,

underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2013–9 and CP2013–9 to consider the Request pertaining to the proposed First-Class Package Service Contract 22 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than November 1, 2012. The public portions of these filings can be accessed via the Commission's Web site (<http://www.prc.gov>).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2013–9 and CP2013–9 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than November 1, 2012.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,
Secretary.

[FR Doc. 2012–26475 Filed 10–26–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service

Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 29, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 24 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2013–11, CP2013–11.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–26460 Filed 10–26–12; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 29, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 23 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2013–10, CP2013–10.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–26461 Filed 10–26–12; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a

domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 29, 2012.

FOR FURTHER INFORMATION CONTACT:

Elizabeth A. Reed, 202-268-3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 21 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2013-8, CP2013-8.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012-26463 Filed 10-26-12; 8:45 am]

BILLING CODE 7710-12-P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 29, 2012.

FOR FURTHER INFORMATION CONTACT:

Elizabeth A. Reed, 202-268-3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 22, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 22 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2013-9, CP2013-9.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012-26462 Filed 10-26-12; 8:45 am]

BILLING CODE 7710-12-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange

Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213

Extension:

Rule 22e-3, OMB Control No. 3235-0658, SEC File No. 270-603.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 22(e) of the Investment Company Act [15 U.S.C. 80a-22(e)] ("Act") generally prohibits funds, including money market funds, from suspending the right of redemption, and from postponing the payment or satisfaction upon redemption of any redeemable security for more than seven days. The provision was designed to prevent funds and their investment advisers from interfering with the redemption rights of shareholders for improper purposes, such as the preservation of management fees. Although section 22(e) permits funds to postpone the date of payment or satisfaction upon redemption for up to seven days, it does not permit funds to suspend the right of redemption for any amount of time, absent certain specified circumstances or a Commission order.

Rule 22e-3 under the Act [17 CFR 270.22e-3] exempts money market funds from section 22(e) to permit them to suspend redemptions in order to facilitate an orderly liquidation of the fund. Specifically, rule 22e-3 permits a money market fund to suspend redemptions and postpone the payment of proceeds pending board-approved liquidation proceedings if: (i) The fund's board of directors, including a majority of disinterested directors, determines pursuant to § 270.2a-7(c)(8)(ii)(C) that the extent of the deviation between the fund's amortized cost price per share and its current net asset value per share calculated using available market quotations (or an appropriate substitute that reflects current market conditions) may result in material dilution or other unfair results to investors or existing shareholders; (ii) the fund's board of directors, including a majority of disinterested directors, irrevocably approves the liquidation of the fund; and (iii) the fund, prior to suspending redemptions, notifies the Commission of its decision to liquidate and suspend redemptions. Rule 22e-3 also provides an exemption from section 22(e) for registered investment companies that own shares of a money market fund

pursuant to section 12(d)(1)(E) of the Act ("conduit funds"), if the underlying money market fund has suspended redemptions pursuant to the rule. A conduit fund that suspend redemptions in reliance on the exemption provided by rule 22e-3 is required to provide prompt notice of the suspension of redemptions to the Commission. Notices required by the rule must be provided by electronic mail, directed to the attention of the Director of the Division of Investment Management or the Director's designee.¹ Compliance with the notification requirement is mandatory for money market funds and conduit funds that rely on rule 22e-3 to suspend redemptions and postpone payment of proceeds pending a liquidation, and are not kept confidential.

Commission staff estimates that, on average, one money market fund would break the buck and liquidate every six years.² In addition, Commission staff estimate that there are an average of two conduit funds that may be invested in a money market fund that breaks the buck.³ Commission staff further estimate that a money market fund or conduit fund would spend approximately one hour of an in-house attorney's time to prepare and submit the notice required by the rule. Given these estimates, the total annual burden of the notification requirement of rule 22e-3 for all money market funds and conduit funds would be approximately 30 minutes,⁴ at a cost of \$189.⁵ The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even

¹ See rule 22e-3(a)(3).

² This estimate is based upon the Commission's experience with the frequency with which money market funds have historically required sponsor support. Although the vast majority of money market fund sponsors have supported their money market funds in times of market distress, for purposes of this estimate Commission staff conservatively estimates that one or more sponsors may not provide support.

³ These estimates are based on a review of filings with the Commission.

⁴ This estimate is based on the following calculations: (1 hour ÷ 6 years) = 10 minutes per year for each fund and conduit fund that is required to provide notice under the rule. 10 minutes per year × 3 (combined number of affected funds and conduit funds) = 30 minutes.

⁵ This estimate is based on the following calculation: \$378/hour × 30 minutes = \$189. The estimated hourly wages used in this PRA analysis were derived from reports prepared by the Securities Industry and Financial Markets Association, modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. See Securities Industry and Financial Markets Association, *Management & Professional Earnings in the Securities Industry 2011*.

a representative survey or study of the costs of Commission rules and forms.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days after this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: PRA_Mailbox@sec.gov.

Dated: October 24, 2012.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2012-26541 Filed 10-26-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30239; File No. 812-14056]

PNC Capital Advisors, LLC, et al.; Notice of Application

October 23, 2012.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 12(d)(1)(f) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act.

SUMMARY OF THE APPLICATION: The requested order would permit certain registered open-end management investment companies that operate as "funds of funds" to acquire shares of

certain registered open-end management investment companies and unit investment trusts ("UITs") that are within and outside the same group of investment companies as the acquiring investment companies.

APPLICANTS: PNC Capital Advisors, LLC ("Adviser") and PNC Funds and PNC Advantage Funds (each a "Trust" and together, the "Trusts").

DATES: Filing Dates: The application was filed on July 13, 2012, and amended on October 5, 2012.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 19, 2012, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicants: Daniel O. Hirsch, PNC Legal Department, 1600 Market Street, 28th Floor, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: David J. Marcinkus, Attorney Advisor, at (202) 551-6882 or David P. Bartels, Branch Chief, at (202) 551-6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm>, or by calling (202) 551-8090.

Applicants' Representations

1. Each Trust is an open-end management investment company registered under the Act and organized as a Delaware statutory trust. Each Trust is comprised of separate series that pursue distinct investment objectives and strategies.¹ The Adviser is

¹ Applicants request that the relief apply to each existing and future series of the Trusts and to each

registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and serves as investment adviser for each of the Funds. The Adviser is a Delaware limited liability company.

2. Applicants request an order to permit (a) a Fund that operates as a "fund of funds" (each a "Fund of Funds") to acquire shares of (i) registered open-end management investment companies that are not part of the same "group of investment companies," within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds ("Unaffiliated Investment Companies") and UITs that are not part of the same group of investment companies as the Fund of Funds ("Unaffiliated Trusts," and together with the Unaffiliated Investment Companies, "Unaffiliated Funds")² or (ii) registered open-end management companies or UITs that are part of the same group of investment companies as the Fund of Funds (collectively, "Affiliated Funds," together with the Unaffiliated Funds, "Underlying Funds") and (b) each Underlying Fund, any principal underwriter for the Underlying Fund, and any broker or dealer registered under the Securities Exchange Act of 1934 ("Broker") to sell shares of the Underlying Fund to the Fund of Funds.³ Applicants also request an order under sections 6(c) and 17(b) of the Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.

Applicants' Legal Analysis

Investments in Underlying Funds

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the

existing and future registered open-end management investment company or series thereof (each a "Fund" and collectively, "Funds") that is advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser and which is part of the same group of investment companies (as defined in section 12(d)(1)(G)(ii) of the Act) as the Trusts.

² Certain of the Unaffiliated Funds may be registered under the Act as either UITs or open-end management investment companies and have received exemptive relief to permit their shares to be listed and traded on a national securities exchange at negotiated prices ("ETFs").

³ All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's total outstanding voting stock, or if the sale will cause more than 10% of the acquired company's total outstanding voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(f) of the Act to permit a Fund of Funds to acquire shares of the Underlying Funds in excess of the limits in section 12(d)(1)(A), and an Underlying Fund, any principal underwriter for an Underlying Fund, and any Broker to sell shares of an Underlying Fund to a Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.

3. Applicants state that the terms and conditions of the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants believe that the proposed arrangement will not result in the exercise of undue influence by a Fund of Funds or a Fund of Funds Affiliate over the Unaffiliated Funds.⁴ To limit the control that a Fund of Funds may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Adviser, any person

controlling, controlled by, or under common control with the Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Adviser or any person controlling, controlled by, or under common control with the Adviser (the "Advisory Group") from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any other investment adviser within the meaning of section 2(a)(20)(B) of the Act to a Fund of Funds ("Subadviser"), any person controlling, controlled by or under common control with the Subadviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Subadviser or any person controlling, controlled by or under common control with the Subadviser (the "Subadvisory Group"). Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate ("Affiliated Underwriting").⁵

5. To further assure that an Unaffiliated Investment Company understands the implications of an investment by a Fund of Funds under the requested order, prior to a Fund of Funds' investment in the shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order ("Participation Agreement"). Applicants

note that an Unaffiliated Investment Company (other than an ETF whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds.⁶

6. Applicants state that they do not believe that the proposed arrangement will involve excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not "interested persons" (within the meaning of section 2(a)(19) of the Act) ("Independent Trustees"), will find that the advisory fees charged under investment advisory or management contract(s) are based on services provided that will be in addition to, rather than duplicative of, the services provided under such advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b-1 under the Act) received from an Unaffiliated Fund by the Adviser or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any sales charges and/or service fees charged with respect to shares of the Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in Rule 2830 of the Conduct Rules of the NASD ("NASD Conduct Rule 2830").⁷

7. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except in certain circumstances identified in condition 11 below.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of

⁴ A "Fund of Funds Affiliate" is the Adviser, any Subadviser (as defined below), promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by, or under common control with any of those entities. An "Unaffiliated Fund Affiliate" is an investment adviser, sponsor, promoter, or principal underwriter of an Unaffiliated Fund, as well as any person controlling, controlled by, or under common control with any of those entities.

⁵ An "Underwriting Affiliate" is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, Subadviser, or employee of the Fund of Funds, or a person of which any such officer, director, trustee, member of an advisory board, investment adviser, Subadviser, or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the Act.

⁶ An Unaffiliated Investment Company, including an ETF, would retain its right to reject any initial investment by a Fund of Funds in excess of the limit in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds.

⁷ Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

the company. Section 2(a)(3) of the Act defines an “affiliated person” of another person to include (a) Any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that a Fund of Funds and the Affiliated Funds might be deemed to be under common control of the Adviser and therefore affiliated persons of one another. Applicants also state that a Fund of Funds and the Unaffiliated Funds might be deemed to be affiliated persons of one another if the Fund of Funds acquires 5% or more of an Unaffiliated Fund’s outstanding voting securities. In light of these and other possible affiliations, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from a Fund of Funds.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) The terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act.⁸ Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund

⁸ Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by a Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the Act. The Participation Agreement also will include this acknowledgement.

will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of the Underlying Fund.⁹ Applicants state that the proposed transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act.

Applicants’ Conditions

Applicants agree that the relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

1. The members of an Advisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The members of a Subadvisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Unaffiliated Fund, the Advisory Group or a Subadvisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of the Unaffiliated Fund, then the Advisory Group or the Subadvisory Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund’s shares. This condition will not apply to a Subadvisory Group with respect to an Unaffiliated Fund for which the Subadviser or a person controlling, controlled by, or under common control with the Subadviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in shares of an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the

Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to ensure that its Adviser and any Subadviser(s) to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s) or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than

⁹ Applicants note that a Fund of Funds generally would purchase and sell shares of an Unaffiliated Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Unaffiliated Fund. Applicants nevertheless request relief from Sections 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in Section 2(a)(3) of the Act, of an ETF to purchase or redeem shares from the ETF. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds, because an investment adviser to the ETF is also an investment adviser to the Fund of Funds.

annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things, (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth the: (a) Party from whom the securities were acquired, (b) identity of the underwriting syndicate's members, (c) terms of the purchase, and (d) information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to

fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under such advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding and the basis upon which the finding was made will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b-1 under the Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Subadviser will waive fees otherwise payable to the Subadviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Subadviser, or an affiliated person of the Subadviser, from an Unaffiliated Fund, other than any advisory fees paid to the Subadviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Subadviser. In the event that the Subadviser waives

fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

12. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to fund of funds set forth in NASD Conduct Rule 2830.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2012-26540 Filed 10-26-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68085; File No. SR-NASDAQ-2012-119]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Establish Fees for New Optional Wireless Connectivity for Co-located Clients

October 23, 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 October 10, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule change to establish fees for new optional means for clients to receive third party market data and NASDAQ TotalView ITCH market data. NASDAQ proposes to offer wireless connectivity for co-located clients in NASDAQ's Carteret data center to receive Direct Edge, BATS, NYSE, and NYSE ARCA multi-cast market data feeds. It also proposes to offer remote multi-cast ITCH Wave Ports for clients co-located at other third party data centers, through which NASDAQ TotalView ITCH market data will be distributed after delivery to those data centers via wireless network. The text of the proposed rule change is available at <http://nasdaq.cchwallstreet.com>, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to amend NASDAQ Rule 7034 to establish fees for the delivery of third party market data to market center clients via a wireless network using millimeter wave or microwave technology. It also proposes to amend NASDAQ Rule 7015 to establish fees for remote Multi-cast ITCH Wave Ports for clients co-located at other third-party data centers, through which NASDAQ TotalView ITCH market data will be distributed after delivery to those data centers via wireless network.

Wireless technology has been in existence for many years, used primarily by the defense, retail and telecommunications industries. Wireless connectivity involves the

beaming of signals through the air between towers that are within sight of one another. Because the signals travel a straight, unimpeded line, and because light waves travel faster through air than through glass (fiber optics), message latency is reduced. The continued use of this technology by the defense industry and regulation of the spectrum by the FCC demonstrates the secure nature of wireless networks.

Over the last year, wireless technology has been introduced in the financial services industry. In offering optional wireless connectivity, NASDAQ is responding to requests from clients that wish to utilize the technology. Clients have sought to buy roof rights so that they can install their own microwave dishes on the roof at the NASDAQ data center in Carteret, New Jersey. Some have already installed microwave dishes on nearby towers with fiber connectivity to the data center, or have reserved space to do so. Rather than sell roof rights to individual clients, which would quickly result in the lack of physical space on the data center roof to accommodate all clients fairly and equally, NASDAQ proposes to supply market data, via a vendor-supplied wireless network, for all data center clients that wish to avail themselves of it.

Wireless Connectivity in Carteret. NASDAQ will utilize a network vendor to supply wireless connectivity from the Carteret data center to the Secaucus Equinix data center (NY4) used by Direct Edge and other exchanges; the Newark data center used by NYSE as a SFTI Network Point of Presence; and the Weehawken Savvis data center (NJ2) used by BATS. The vendor will install, test and maintain the necessary communication equipment for this wireless network between the data centers.

Clients who choose this optional service will have their NASDAQ cross connect handoffs (1G, 10G, or 40G) enabled to receive the chosen raw, multicast market data for Direct Edge, BATS, and/or NYSE. NASDAQ OMX will continue to act as re-distributor of these third party market data feeds, capturing the data at the originating data centers and transporting the data to the Carteret data center. NASDAQ is offering these particular equity feeds because they are the feeds requested by clients. There is limited bandwidth available on the wireless connection, and the Exchange has opted to offer those that are in most demand to start. Additional feeds may be added based on overall client demand and bandwidth availability.

The wireless connectivity will be an optional offering, an alternative to fiber optic network connectivity, and will provide lower latency. It will not provide a new market data product, but merely an alternative means of connectivity. NASDAQ's wireless connectivity offering, in conjunction with NASDAQ's equidistant cross connect handoffs (1G, 10G, or 40G), will ensure that all clients co-located within Carteret and electing to use this wireless connectivity offering will receive the chosen market data at the same low latency, equalizing any variances that might otherwise result from differences in the location of client cabinets within the facility or different wireless networks utilized by clients independently of this offering.

To obtain wireless connectivity, clients will be charged a \$2,500 installation fee (a non-recurring charge) and a monthly recurring charge (MRC) that will vary depending upon the feed. The MRC for the NYSE multi-cast equities data feed, which includes NYSE ArcaBook Highspeed and NYSE OpenBook (Aggregated or Ultra), will be \$10,000; the MRC for BATS Multicast PITCH, which includes BZX and BYX, will be \$7,500; and the MRC for Direct Edge Depth of Book multi-cast feed, which includes EDGA and EDGX, will be \$7,500. The rates are higher for the NYSE feeds because the two feeds are larger, and take up more bandwidth than the BATS and Direct Edge feeds.

Clients will place orders for the wireless connectivity via the CoLo Console³ and would be subject to a one-year minimum lock-in period. The lock-in feature, which is common practice for collocation offerings, will ensure that the Exchange can recoup the substantial investment required to establish the wireless system. As an incentive to clients, NASDAQ will waive the first month's MRC. Clients will continue to be charged by NYSE, BATS and Direct Edge for the market data received, and NASDAQ will continue to be charged the redistribution fees by the other exchanges, as occurs today. No changes in these charges will occur as a result of this proposed offering.

NASDAQ OMX will perform substantial network testing prior to offering the service for a fee to members. After this "beta" testing period, upon initial roll-out of the service, clients will be offered the service for a fee, and on a rolling basis, the Exchange will enable new clients to receive the feed(s) for a minimum of 30 days before incurring

³ The "CoLo Console" is a web-based ordering tool NASDAQ offers to enable members to place collocation orders.

any monthly recurring fees. The wireless network will continue to be closely monitored and the client informed of any issues. Similar to receiving market data over fiber optic networks, the wireless network can encounter delays or outages due to equipment issues. As wireless networks may be affected by severe weather events, clients will be expected to have redundant methods to receive this market data and will be asked to attest to having alternate methods or establishing an alternate method in the near future when they order this service from the Exchange.

This new data feed delivery option will be available to all clients of the data center, and is in response to industry demand, as well as to changes in the technology for distributing market data. Clients opting not to pay for the wireless connectivity will still be able to receive market data via fiber optics and standard telecommunications connections, as they do currently, and under the same fees. Receipt of trade data via wireless technology is completely optional. In addition, clients can choose to receive market data via other third-party vendors (Extranets or Telecommunication vendors) via fiber optic networks or wireless networks.

Remote Multi-cast ITCH (MITCH) Wave Ports. NASDAQ also proposes to offer remote multi-cast ITCH Wave Ports for clients co-located at other third-party data centers. NASDAQ TotalView ITCH market data will be delivered to NASDAQ-owned cabinets at those data centers via a wireless network. Clients will have the option of cross-connecting to the MITCH Wave Ports in those data centers to receive the raw NASDAQ multi-cast data feed, TotalView ITCH. An installation charge for the remote port would be, at each of the locations, \$2,500 for installation, and \$7,500 as a monthly recurring fee. This offering, which is entirely optional, will enable delivery of NASDAQ TotalView ITCH to the third-party data centers at the same low latency.⁴ Clients opting to pay for the remote MITCH Wave Ports will continue to be fee liable for the applicable market data fees as described in NASDAQ Rule 7026, NASDAQ Rule 7019 and NASDAQ Rule 7023.

Competition for market data distribution is considerable and the Exchange believes that this proposal

⁴ NASDAQ cannot preclude minor latency variances in delivery of NASDAQ TotalView in the third-party data centers to individual clients because it does not control the cross-connects in those centers; however, the microwave connectivity will provide the same latency to all clients' MITCH Wave Ports and offers an improvement in latency over fiber optic network connectivity.

clearly evidences such competition. The Exchange is offering a new wireless connectivity option and remote wave ports to keep pace with changes in the industry and evolving customer needs as new technologies emerge and products continue to develop and change. They are incremental to existing offerings, entirely optional, and are geared towards attracting new customers, as well as retaining existing customers.

The proposed fees are based on the cost to NASDAQ of installing and maintaining the wireless connectivity and on the value provided to the customer, which receives low latency delivery of data feeds. The costs associated with the wireless connectivity system are incrementally higher than fiber optics-based solutions due to the expense of the wireless equipment, cost of installation, and testing. The fees also allow NASDAQ to make a profit, and reflect the premium received by the clients in terms of lower latency over the fiber optics option. Clients can choose to build and maintain their own wireless networks or choose their own third party network vendors but the upfront and ongoing costs will be much more substantial than this Exchange wireless offering.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁵ in general, and with Sections 6(b)(4) and (b)(5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading activities of those members who believe that co-location enhances the efficiency of their trading. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of such members. If a particular exchange charges excessive fees for co-location services, affected members will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies,

including co-locating with a different exchange, placing their servers in a physically proximate location outside the exchange's data center, or pursuing trading strategies not dependent upon co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also revenues associated with the execution of orders routed to it by affected members. Although currently no other exchange offers wireless connectivity, there are no constraints on their ability to do so, and it is probable that other exchanges will make a similar offering in the near future. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for co-location services, including fees for wireless connectivity.

A co-location customer may obtain a similar service by contracting with a wireless service provider to install the required dishes on towers near the data centers and paying the service provider to maintain the service. However, the cost involved in establishing service in this manner is substantial and could result in uneven access to wireless connectivity. The Exchange's proposed fees will allow these clients to utilize wireless connectivity and obtain the lower latency transmission of data from third parties and NASDAQ that is available to others, at a reasonable cost.⁷

⁷ The wireless network offered by the Exchange via the provider, although constrained by bandwidth with respect to the number of feeds it can carry, can be made available to an unlimited number of customers. The factors that differentiate this proposal from the Exchange's offerings of and initial fees for low latency network telecommunication connections approved by the Commission in Securities Exchange Act Release No. 66013 (December 20, 2011) 76 FR 80992 (December 27, 2011) (SR-NASDAQ-2011-146) are a function of technology and program concept, but neither approach implicates a burden on competition, for similar reasons: each offers, at a competitive price, a service that customers may obtain by dealing directly with the provider rather than the Exchange; and each is expected to result in a reduction in fees charged to market participants, the very essence of competition. Pursuant to the SEC's prior approval, the Exchange offers customers the opportunity to obtain low latency telecommunications connectivity by establishing a low-latency minimum standard and negotiating with multiple telecommunication providers to obtain discounted rates. It then passes these wholesale rates along to participating customers, with a markup to compensate for the Exchange's role in negotiating and establishing the arrangement, and integrating and maintaining each new connection. Co-located customers are free to choose the provider they wish to use from those participating in the program; or they may choose not to avail themselves of the service and obtain comparable services directly from the provider. The Exchange does not discriminate among telecommunications providers in its program, so long as they meet the required latency, destination, and fee standards. Wireless technology, in contrast, does not require separate

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4) and (5).

Moreover, the Exchange believes the proposed fees for wireless connectivity to NASDAQ are reasonable because they are based on the Exchange's costs to cover hardware, installation, testing and connection, as well as expenses involved in maintaining and managing the enhanced connection. The proposed fees allow the Exchange to recoup these costs and make a profit, while providing customers the ability to reduce latency in the transmission of data from third parties and NASDAQ, and reducing the cost to them that would be involved if they build or buy their own wireless networks. The Exchange believes that the proposed fees are reasonable in that they reflect the costs of the connection and the benefit of the lower latency to clients.

The Exchange believes the proposed wireless connectivity fee is equitably allocated and non-discriminatory in that all Exchange members that voluntarily select this service option will be charged the same amount for the same services. As is true of all co-location services, all co-located clients have the option to select this voluntary connectivity option, and there is no differentiation among customers with regard to the fees charged for the service. Further, the latency reduction offered will be the same for all co-located clients, irrespective of the locations of their cabinets within the data center. The same cannot be said of the alternative where entities with substantial resources invest in private services and thereby obtain lower latency transmission, while those without resources are unable to invest in the necessary infrastructure.

The Exchange's proposal is also consistent with the requirement of Section 6(b)(5) of the Act that Exchange rules be designed to promote just and equitable principles of trade to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to

avenues of connectivity for each customer, and thus the Exchange is not obtaining a wholesale price by negotiating with service providers. Rather, it is selecting, on a competitive basis, the service provider(s) to install and maintain the system, and charging customers for access to that particular system, offering lower prices because it is spreading the substantial cost among multiple clients. The program, far from burdening competition among connectivity service providers, promotes it. A wireless provider that can offer to the Exchange—or to a competitor exchange—a lower price for installation and maintenance will no doubt get the exchanges' business, with the end result that prices for the end users will go down.

and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal is consistent with these requirements inasmuch as it makes available to market participants, at a reasonable fee and on a non-discriminatory basis, access to low latency means of receiving market data feeds. Some market participants have already adopted wireless technology, using towers near the data centers, and others have approached the Exchange seeking to rent roof rights to mount their towers. Rather than lease out roof space to the highest bidders, a process that would stratify and limit access to the low latency delivery, this approach allows unlimited numbers of users to utilize the equipment that the Exchange will mount and accommodates all clients fairly and equally. It will allow the same low latency delivery to those unable to invest in the more expensive option of building or acquiring their own wireless network, as it does for those whose pockets are deeper.

Initially, NASDAQ will perform substantial network testing prior to making the service available to members. After this testing period, the wireless network will continue to be closely monitored and maintained by the vendor and the client will be informed of any issues. Additionally, during the initial roll-out of the service and on a rolling basis for future clients, the Exchange will enable clients to test the receipt of the feed(s) for a minimum of 30 days before incurring any monthly recurring fees. Similar to receiving market data over fiber optic networks, the wireless network can encounter delays or outages due to equipment issues. As wireless networks may be affected by severe weather events, clients will be expected to have redundant methods to receive this market data and will be asked to attest to having alternate methods or establishing an alternate method in the near future when they order this service from the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ 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, as amended. To the contrary, this proposal will promote competition for distribution of market data by offering an optional and innovative product enhancement.

Wireless technology has been in use for decades, is available from multiple providers, and may be adopted by other Exchanges that decide to offer microwave connectivity for delivery of market data. As discussed above, the Exchange believes that fees for co-location services, including those proposed for microwave connectivity, are constrained by the robust competition for order flow among exchanges and non-exchange markets, because co-location exists to advance that competition. Further, excessive fees for co-location services, including for wireless technology, would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

Competition between the Exchange and competing trading venues will be enhanced by allowing the Exchange to offer its market participants a lower latency connectivity option. Competition among market participants will also be supported by allowing small and large participants the same price for this lower latency connectivity.

The proposed rule change will likewise enhance competition among service providers offering connections between market participants and the data centers. The offering will expand the multiple means of connectivity available, allowing customers to compare the benefits and costs of lower latency transmission and related costs with reference to numerous variables. The Exchange, and presumably its competitors, select their service providers on a competitive basis in order to pass along price advantages to their customers, and to win and maintain their business. The offering is consistent with the Exchange's own economic incentives to facilitate as many market participants as possible in connecting to its market.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. By order approve or disapprove such proposed rule change, or
- B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2012-119 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-NASDAQ-2012-119. 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-NASDAQ-2012-119 and should be

submitted on or before November 19, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-26469 Filed 10-26-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68086; File No. SR-CBOE-2012-066]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Increase Position and Exercise Limits for EEM Options

October 23, 2012.

I. Introduction

On July 9, 2012, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to increase the position and exercise limits for options on the iShares MSCI Emerging Markets Index Fund ("EEM") to 500,000 contracts. The proposed rule change was published for comment in the **Federal Register** on July 26, 2012.³ On September 6, 2012, the Commission extended the time period for Commission action to October 24, 2012.⁴ On October 18, 2012, the Exchange filed Amendment No. 1 to the proposed rule change.⁵ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of Proposed Rule Change

Currently, position limits for exchange-traded fund ("ETF") options,

such as EEM options,⁶ are determined pursuant to Exchange Rule 4.11 and vary according to the number of outstanding shares and past six-month trading volume of the underlying security. The current position limit for EEM options is 250,000 contracts. The purpose of the proposed rule change is to amend Exchange Rule 4.11, Interpretation and Policy .07 to increase the position and exercise limits for EEM options to 500,000 contracts.⁷ The Exchange states its belief that increasing position limits for EEM options will lead to a more liquid and competitive market environment for EEM options that will benefit customers interested in this product.⁸

In its filing, the Exchange states that there is precedent for establishing higher position limits for options on actively-traded ETFs.⁹ Specifically, options on the DIAMONDS Trust (DIA) have a position limit of 300,000 contracts, options on the Standard and Poor's Depository Receipts Trust (SPY) have no position limits,¹⁰ options on the iShares Russell 2000 Index Fund (IWM) have a position limit of 500,000 contracts, and options on the PowerShares QQQ Trust (QQQ) have a position limit of 900,000 contracts.¹¹

In addition, in its filing, the Exchange states that the average daily volume in 2011 for EEM was 65 million shares,¹² as compared to 64.1 million shares for IWM and 213 million shares for SPY.¹³ In 2011, the average daily volume for options contracts overlying EEM was 280,000 contracts,¹⁴ as compared to

⁶ In Amendment No. 1, the Exchange states that EEM tracks the performance of the MSCI Emerging Markets Index, which has approximately 800 components. The Exchange also states that the MSCI Emerging Markets Index "is a free float-adjusted market capitalization index that is designed to measure equity market performance of emerging markets." According to the Exchange, the MSCI Emerging Markets Index "consists of the following 21 emerging market country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Korea, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, Taiwan, Thailand, and Turkey."

⁷ Pursuant to Exchange Rule 4.12, Interpretation and Policy .02, which is not being amended by the proposed rule change, the exercise limit for EEM options would be similarly increased.

⁸ See Notice, *supra* note 3, at 43898.

⁹ See *id.*, at 43897.

¹⁰ See Securities Exchange Act Release No. 67937 (September 27, 2012), 77 FR 60489 (October 3, 2012) (SR-CBOE-2012-091) (eliminating position and exercise limits for SPY options on a pilot basis).

¹¹ See Exchange Rule 4.11, Interpretation and Policy .07.

¹² In Amendment No. 1, the Exchange states that, through October 17, 2012, the year-to-date average daily trading volume for EEM across all exchanges was 49.3 million shares.

¹³ See Notice, *supra* note 3, at 43898.

¹⁴ In Amendment No. 1, the Exchange states that, through October 17, 2012, the year-to-date average

⁸ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 67478 (July 20, 2012), 77 FR 43897 ("Notice").

⁴ See Securities Exchange Act Release No. 67790 (September 6, 2012), 77 FR 56243 (September 12, 2012).

⁵ Amendment No. 1 provides a description of EEM and the MSCI Emerging Markets Index, as well as additional justification for the proposed rule change. See, e.g., *infra* notes 6, 12, 14, and 24. Amendment No. 1 is not subject to notice and comment because it does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

662,500 contracts for options overlying IWM and 2,892,000 contracts for options overlying SPY.¹⁵ The total shares outstanding for EEM was 922.9 million, as compared to 192.6 million shares for IWM and 716.1 million shares for SPY.¹⁶ Further, the fund market cap for EEM was \$41.1 billion, as compared to \$15.5 billion for IWM and \$98.3 billion for SPY.¹⁷

The Exchange notes that the options reporting requirements of Exchange Rule 4.13 would continue to be applicable to EEM options.¹⁸ As set forth in Exchange Rule 4.13(a), each Trading Permit Holder (“TPH”) must report to the Exchange certain information in relation to any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts in any single class of option contracts dealt in on the Exchange.¹⁹ Further, Exchange Rule 4.13(b) requires each TPH (other than an Exchange market-maker or Designated Primary Market-Maker)²⁰ that maintains a position in excess of 10,000 non-FLEX equity option contracts on the same side of the market, on behalf of its own account or for the account of a customer, to report to the Exchange information as to whether such positions are hedged, and provide documentation as to how such contracts are hedged.²¹

The Exchange believes that the existing surveillance procedures and reporting requirements at CBOE, other options exchanges, and at the several clearing firms are capable of properly identifying unusual and/or illegal trading activity.²² According to the Exchange, its surveillance procedures utilize daily monitoring of market movements via automated surveillance techniques to identify unusual activity

daily trading volume for EEM options across all exchanges was 250,304 contracts.

¹⁵ See Notice, *supra* note 3, at 43898.

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ See *id.*

¹⁹ The report must include, for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered. See Exchange Rule 4.13(a).

²⁰ According to the Exchange, market-makers (including Designated Primary Market-Makers) are exempt from the referenced reporting requirement because market-maker information can be accessed through the Exchange’s market surveillance systems. See Notice, *supra* note 3, at 43898.

²¹ According to the Exchange, this information would include, but would not be limited to, the option position, whether such position is hedged and, if so, a description of the hedge, and the collateral used to carry the position, if applicable. See *id.*

²² See *id.*

in both options and underlying stocks.²³ In addition, the Exchange states that its surveillance procedures have been effective for the surveillance of trading in EEM options, and will continue to be employed.²⁴

The Exchange further states its belief that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a TPH or its customer may try to maintain an inordinately large unhedged position in an option, particularly on EEM.²⁵ Current margin and risk-based haircut methodologies, the Exchange states, serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer.²⁶ In addition, the Exchange notes that the Commission’s net capital rule, Rule 15c3–1 under the Act,²⁷ imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.²⁸

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.²⁹ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,³⁰ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and

open market and a national market system and, in general, to protect investors and the public interest.

Position and exercise limits serve as a regulatory tool designed to address manipulative schemes and adverse market impact surrounding the use of options. Since the inception of standardized options trading, the options exchanges have had rules limiting the aggregate number of options contracts that a member or customer may hold or exercise.³¹ These position and exercise limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate the underlying market so as to benefit the options positions.³² In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market.³³ In addition, such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid classes.³⁴

Over the years, the Commission has taken a gradual, evolutionary approach toward expansion of position and exercise limits for option products overlying certain ETFs where there is considerable liquidity in both the underlying cash markets and the options markets, and, in the case of certain broad-based index options, toward elimination of such limits altogether.³⁵ The Commission has been careful to balance two competing concerns when considering proposals by self-regulatory organizations to change position and exercise limits. The Commission has recognized that the limits can be useful to prevent investors from disrupting the market in securities underlying the options.³⁶ At the same time, the Commission has determined that limits should not be established in

²³ See *id.*

²⁴ See *id.*, at n. 5. In Amendment No. 1, the Exchange represents that more than 50% of the weight of the securities held by EEM are now subject to a comprehensive surveillance agreement (“CSA”). Additionally, the Exchange states that the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any one country that is not subject to a CSA do not represent 20% or more of the weight of the MSCI Emerging Markets Index. Further, the Exchange states that the component securities of the MSCI Emerging Markets Index on which EEM is based for which the primary market is in any two countries that are not subject to CSAs do not represent 33% of more of the weight of the MSCI Emerging Markets Index.

²⁵ See Notice, *supra* note 3, at 43898.

²⁶ See *id.*

²⁷ 17 CFR 240.15c3–1.

²⁸ See Notice, *supra* note 3, at 43898.

²⁹ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁰ 15 U.S.C. 78f(b)(5).

³¹ See, e.g., Securities Exchange Act Release No. 45236 (January 4, 2002), 67 FR 1378 (January 10, 2002) (SR–Amex–2001–42).

³² See, e.g., Securities Exchange Act Release No. 47346 (February 11, 2003), 68 FR 8316 (February 20, 2003) (SR–CBOE–2002–26).

³³ See *id.*

³⁴ See *id.*

³⁵ The Commission’s incremental approach to approving changes in position and exercise limits for option products overlying certain ETFs is well-established. See, e.g., Securities Exchange Act Release No. 67672 (August 15, 2012), 77 FR 50750, n. 42 and accompanying text (August 22, 2012) (SR–NYSEAmex–2012–29) (approving proposed rule change to eliminate position limits for SPY options on a pilot basis); Securities Exchange Act Release No. 64695 (June 17, 2011), 76 FR 36942, n. 19 and accompanying text (June 23, 2011) (SR–Phlx–2011–58) (approving increase of SPY options position limit to 900,000 contracts).

³⁶ See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR–CBOE–97–11).

a manner that will unnecessarily discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.³⁷

The Commission believes that it is reasonable for the Exchange to increase the position and exercise limits for options on EEM to 500,000 contracts. As noted above, the markets for standardized options on EEM and for EEM itself have substantial trading volume and liquidity. The Commission believes that this liquidity would lessen the opportunity for manipulation of this product and disruption in the underlying market that a lower position limit may protect against. Specifically, the Exchange notes that, in 2011, the average daily trading volumes for EEM and options on EEM were 65 million shares and 280,000 contracts, respectively.³⁸ In Amendment No. 1, the Exchange notes that, through October 17, 2012, the year-to-date average daily trading volume for EEM across all exchanges was 49.3 million shares, and the year-to-date average daily trading volume for EEM options across all exchanges was 250,304 contracts.³⁹ The Exchange also notes that there were 922.9 million shares of EEM outstanding, with a market cap of \$41.1 billion.⁴⁰

As noted above, the Exchange also believes that current margin and net capital requirements serve to limit the size of positions maintained by any one account.⁴¹ The Commission agrees that these financial requirements should help to address concerns that a member or its customer may try to maintain an inordinately large unhedged position in EEM options and will help to reduce risks if such a position is established.

The Commission further agrees with the Exchange that the reporting requirements imposed by Exchange Rule 4.13,⁴² as well as the Exchange's surveillance procedures, together with those of other exchanges and clearing firms,⁴³ should help protect against potential manipulation. The Commission expects that the Exchange will continue to monitor trading in the EEM options for the purpose of discovering and sanctioning manipulative acts and practices, and to

reassess the position and exercise limits, if and when appropriate, in light of its findings.

In sum, given the measure of liquidity for EEM and options on EEM, the broad range of component securities that make up the MSCI Emerging Markets Index, the margin and capital requirements cited above, the Exchange's options reporting requirements, and the Exchange's surveillance procedures and agreements with other markets, the Commission believes that increasing the position and exercise limits for the EEM options to 500,000 contracts is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁴ that the proposed rule change (SR-CBOE-2012-066), as modified by Amendment No. 1 thereto, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁵

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-26470 Filed 10-26-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Chimera Energy Corporation; Order of Suspension of Trading

October 25, 2012.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chimera Energy Corporation ("Chimera") because of questions regarding the accuracy of statements by Chimera in press releases to investors concerning, among other things, the company's business prospects and agreements.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Chimera.

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 October 25, 2012 through 11:59 p.m. EST, on November 7, 2012.

⁴⁴ 15 U.S.C. 78s(b)(2).

⁴⁵ 17 CFR 200.30-3(a)(12).

By the Commission.

Elizabeth M. Murphy,
Secretary.

[FR Doc. 2012-26609 Filed 10-25-12; 11:15 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 8075]

60-Day Notice of Proposed Information Collection: INTERNATIONAL CONNECTIONS

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *December 28, 2012*.

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

- *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering "Public Notice ####" in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.

- *Email:* Friedlandrc@state.gov.
- *Mail:* U.S. Department of State, 2401 E Street NW., SA1-518H, Washington, DC 20520. Attn.: Rachel Friedland.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Rachel C. Friedland, 2401 E Street NW., Washington, DC 20520, who may be reached on (202) 261-8055 or at Friedlandrc@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* INTERNATIONAL CONNECTIONS.
- *OMB Control Number:* 1405-0190.
- *Type of Request:* Revision of a Currently Approved Collection.

³⁷ See *id.*

³⁸ See Notice, *supra* note 3, at 43898.

³⁹ See *supra* notes 12 and 14 and accompanying text.

⁴⁰ See Notice, *supra* note 3, at 43898.

⁴¹ See *supra* notes 25-28 and accompanying text.

⁴² See *supra* notes 18-21 and accompanying text.

⁴³ See *supra* notes 22-24 and accompanying text.

- *Originating Office:* Bureau of Human Resources, Office of Recruitment, Examination and Employment (HR/REE).

- *Form Number:* DS-5103.

- *Respondents:* Alumni of the U.S.

Department of State's Student Programs, including internships, Pickerings, Rangels, Stay-in-Schools, Co-ops, etc.

- *Estimated Number of Respondents:* 1,000.

- *Estimated Number of Responses:* 1,000.

- *Average Time Per Response:* 30 minutes.

- *Total Estimated Burden Time:* 500.

- *Frequency:* On Occasion.

- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The Department's student internship programs provide a key source of potential candidates who have an interest in, and are qualified, to become future Department employees.

The legal authorities pertaining to this collection include: 22 U.S.C. 2651a., 22 U.S.C. 3901, 5 U.S.C. 3111, and 5 CFR part 362, subpart B.

HR/REE wants to strengthen and maintain its connections to this group, fostering and mentoring a pool of candidates from which to obtain successful recruits.

In June 2008, HR/REE surveyed over 3,500 former interns who served from 2005 through spring 2008. The intern alumni were queried as to their motivation in seeking an internship, whether or not they had pursued a career with either the Foreign Service or Civil Service, and what their recommendations would be for the best ways for the Department to maintain contact after the conclusion of their

internships. Intern alumni endorse continued contact with Department representatives mainly through electronic means and Web site reminders of career opportunities.

In an effort to address these findings and provide viable solutions to improving student engagement prior to, during and following an internship, the Department developed an intern engagement strategy that will ultimately result in a measurable conversion of interns into Department hires for the Foreign or Civil Service. The foundation of this strategy is INTERNational Connections, a web-based career networking site for current, former and future interns that collects pertinent information about them, their experiences and their career goals.

Methodology: Users will register online at careers.state.gov/internconnect and create a profile that includes the aforementioned information.

Dated: October 22, 2012.

William Schaal, Jr.,

Executive Director, Bureau of Human Resources, U.S. Department of State.

[FR Doc. 2012-26552 Filed 10-26-12; 8:45 am]

BILLING CODE 4710-15-P

DEPARTMENT OF STATE

[Public Notice 8076]

Culturally Significant Objects Imported for Exhibition Determinations: "Inventing Abstraction, 1910-1925"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "Inventing Abstraction, 1910-1925," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Modern Art, New York, New York, from on or about December 23, 2012, until on or about April 15, 2013, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I further determine that the

exhibition or display of one of the objects at the Los Angeles County Museum of Art, Los Angeles, California, from on or about May 5, 2013, until on or about September 2, 2013, in the exhibition "Hans Richter: Encounters," is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6469). The mailing address is U.S. Department of State, SA-5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: October 23, 2012.

J. Adam Erel,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012-26555 Filed 10-26-12; 8:45 am]

BILLING CODE 4710-05-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding Waiver of Discriminatory Purchasing Requirements With Respect to Goods and Services Covered by Chapter Nine of the United States-Panama Trade Promotion Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Determination Regarding Waiver of Discriminatory Purchasing Requirements under Trade Agreements Act of 1979.

DATES: *Effective Date:* October 31, 2012.

FOR FURTHER INFORMATION CONTACT: Jean Heilman Grier, Senior Procurement Negotiator, Office of the United States Trade Representative, (202) 395-9476, or Daniel Stirk, Associate General Counsel, Office of the United States Trade Representative, (202) 395-9617.

SUPPLEMENTARY INFORMATION: On June 28, 2007, the United States and Panama entered into the United States-Panama Trade Promotion Agreement ("Panama TPA"). Chapter Nine of the Panama TPA sets forth certain obligations with respect to government procurement of goods and services, as specified in Annex 9.1 of the Panama TPA. On October 21, 2011, the President signed into law the United States-Panama Trade Promotion Agreement Implementation Act ("the Panama TPA Act") (Pub. L. 112-43, 125 Stat. 497) (19 U.S.C. 3805 note). In section 101(a) of

the Panama TPA Act, the Congress approved the Panama TPA. The Panama TPA will enter into force on October 31, 2012.

Section 1–201 of Executive Order 12260 of December 31, 1980 (46 FR 1653) delegates the functions of the President under Sections 301 and 302 of the Trade Agreements Act of 1979 (“the Trade Agreements Act”) (19 U.S.C. 2511, 2512) to the United States Trade Representative.

Determination: In conformity with sections 301 and 302 of the Trade Agreements Act and Executive Order 12260, and in order to carry out U.S. obligations under Chapter Nine of the Panama TPA, I hereby determine that:

1. Panama is a country, other than a major industrialized country, which, pursuant to the Panama TPA, will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products. In accordance with Section 301(b)(3) of the Trade Agreements Act, Panama is so designated for purposes of Section 301(a) of the Trade Agreements Act.

2. With respect to eligible products of Panama (*i.e.*, goods and services covered by the Schedule of the United States in Annex 9.1 of the Panama TPA) and suppliers of such products, the application of any law, regulation, procedure, or practice regarding government procurement that would, if applied to such products and suppliers, result in treatment less favorable than accorded—

(A) To United States products and suppliers of such products; or

(B) To eligible products of another foreign country or instrumentality which is a party to the Agreement on Government Procurement referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17)) and suppliers of such products, shall be waived.

With respect to Panama, this waiver shall be applied by all entities listed in the Schedule of the United States in Annex 9.1 of the Panama TPA.

3. The designation in paragraph 1 and the waiver in paragraph 2 are subject to modification or withdrawal by the United States Trade Representative.

Ronald Kirk,

United States Trade Representative.

[FR Doc. 2012–26538 Filed 10–26–12; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Harnett Regional Jetport, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. 47153(c), notice is being given that the FAA is considering a request from the Harnett Regional Jetport Administrator to waive the requirement that approximately 9.54 acres of airport property, located at the Harnett Regional Jetport, be used for aeronautical purposes.

DATES: Comments must be received on or before November 28, 2012.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Rusty Nealis, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Barry Blevins, Airport Administrator, Harnett Regional Jetport, at the following address: Harnett Regional Jetport, PO Box 65, Lillington, NC 27546.

FOR FURTHER INFORMATION CONTACT: Rusty Nealis, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Campus Building, Suite 2–260, Atlanta, GA 30337–2747, (404)305–7142. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Harnett Regional Jetport Administrator to release approximately 9.54 acres of airport property at the Harnett Regional Jetport. The property consists of one parcel located adjacent to the Harnett Regional Jetport and between Airport Road and Old Stage Road. This property is currently shown on the approved Airport Layout Plan as non-aeronautical use land and the proposed use of this property is compatible with airport operations. The County will sell the property for woodland or cropland use with proceeds of the sale providing funding for future airport development.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Harnett Regional Jetport.

Issued in Atlanta, Georgia on October 12, 2012.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2012–26317 Filed 10–26–12; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of One Individual Pursuant to Executive Order 13566 of February 25, 2011

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department’s Office of Foreign Assets Control (“OFAC”) is publishing the name of an individual designated on October 18, 2012 as a person whose property and interests in property is blocked pursuant to Executive Order 13566 of February 25, 2011 “Blocking Property and Prohibiting Certain Transactions Related to Libya.”

DATES: The designation by the Director of OFAC of the individual identified in this notice, pursuant to Executive Order 13566 of February 25, 2011, is effective October 18, 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 (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On February 25, 2011, the President issued Executive Order 13566, “Blocking Property and Prohibiting Certain Transactions Related to Libya,” (the “Order”) pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (the NEA), and section 301 of title 3, United States Code.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within

the possession or control of any United States person, of persons listed in the Annex to the Order and of persons determined by the Secretary of the Treasury, in consultation the Secretary of State, to satisfy certain criteria set forth in the Order.

On October 18, 2012, the Director of OFAC designated, pursuant to Section 1 of the Order, an individual whose property and interests in property are blocked. The listing for this individual is below.

Individual:

SANDERS, Dalene; DOB 14 Dec 1970; citizen South Africa; National ID No. 7012140235084 (South Africa) (individual) [LIBYA2]

Dated: October 18, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012-26526 Filed 10-26-12; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97-45

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97-45, Highly Compensated Employee Definition.

DATES: Written comments should be received on or before December 28, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notice should be directed to Allan Hopkins, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-6665, or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Highly Compensated Employee Definition.

OMB Number: 1545-1550.

Notice Number: Notice 97-45.

Abstract: Notice 97-45 provides guidance on the definition of highly compensated employee (HCE) within the meaning of section 414(q) of the Internal Revenue Code, as simplified by section 1431 of the Small Business Job Protection Act of 1996, including an employer's option to make a top-paid group election under section 414(q)(1)(B)(ii). The notice requires qualified retirement plans that contain a definition of HCE to be amended to reflect the statutory changes to section 414(q).

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 218,683.

Estimated Time Per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 65,605.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Approved: October 23, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012-26566 Filed 10-26-12; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning losses on small business stock.

DATES: Written comments should be received on or before December 28, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Losses on Small Business Stock.

OMB Number: 1545-1447.

Regulation Project Number: CO-46-94.

Abstract: Section 1.1244(e)-1(b) of the regulation requires that a taxpayer claiming an ordinary loss with respect to section 1244 stock must have records sufficient to establish that the taxpayer satisfies the requirements of section 1244 and is entitled to the loss. The records are necessary to enable the Service examiner to verify that the stock qualifies as section 1244 stock and to determine whether the taxpayer is entitled to the loss.

Current Actions: There is no change to this existing regulation.

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: 10,000.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 2,000.

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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 23, 2012.

Allan Hopkins,
Tax Analyst.

[FR Doc. 2012-26568 Filed 10-26-12; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning penalties for underpayment of deposits and overstated deposit claims, and time for filing information returns of owners, officers and directors of foreign corporations.

DATES: Written comments should be received on or before December 28, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-6665, or through the internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Penalties for Underpayment of Deposits and Overstated Deposit Claims, and Time For Filing Information Returns of Owners, Officers and Directors of Foreign Corporations.

OMB Number: 1545-0794.

Regulation Project Number: LR-311-81.

Abstract: These regulations relate to the penalty for underpayment of deposits and the penalty for overstated deposit claims, and to the time for filing information returns of owners, officers and directors of foreign corporations. Internal Revenue Code section 6046 requires information returns with respect to certain foreign corporations, and the regulations provide the date by which these returns must be filed.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other-for-profit organizations, and not-for-profit institutions.

The burden for section 6046-1 is entirely reflected on Form 5471.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 23, 2012.

Allan Hopkins,
Tax Analyst.

[FR Doc. 2012-26571 Filed 10-26-12; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2220

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2220, Underpayment of Estimated Tax by Corporations.

DATES: Written comments should be received on or before December 28, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Underpayment of Estimated Tax by Corporations.

OMB Number: 1545-0142.

Form Number: 2220.

Abstract: Form 2220 is used by corporation to determine whether they are subject to the penalty for underpayment of estimated tax and, if so, the amount of the penalty. The IRS uses Form 2220 to determine if the penalty was correctly 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: Business or other for-profit institutions.

Estimated Number of Respondents: 707,880.

Estimated Time per Respondent: 34 hrs., 12 min.

Estimated Total Annual Burden Hours: 24,206,448.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 23, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012-26572 Filed 10-26-12; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 9117

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9117, Excise Tax Program Order Blank for Forms and Publications.

DATES: Written comments should be received on or before December 28, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622-6665, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Excise Tax Program Order Blank for Forms and Publications.

OMB Number: 1545-1096.

Form Number: Form 9117.

Abstract: Form 9117 allows taxpayers who must file Form 720 returns a systemic way to order additional tax forms and informational publications.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 15,000.

Estimated Time per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 23, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012-26570 Filed 10-26-12; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Regulation Project**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning golden parachute payments.

DATES: Written comments should be received on or before December 28, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Golden Parachute Payments.
OMB Number: 1545–1851.
Regulation Project Number: REG–124312–02.

Abstract: These regulations deny a deduction for excess parachute payments. A parachute payment is payment in the nature of compensation to a disqualified individual that is contingent on a change in ownership or control of a corporation. Certain payments, including payments from a small corporation, are exempt from the definition of parachute payment if certain requirements are met (such as shareholder approval and disclosure requirements).

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 800.

Estimated Time per Respondent: 9 minutes.

Estimated Total Annual Burden

Hours: 12,000.

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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 23, 2012.

Allan Hopkins,
Tax Analyst.

[FR Doc. 2012–26558 Filed 10–26–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Revenue Ruling 2000–35**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Ruling 2000–35, Automatic Enrollment in Section 403(b) Plans.

DATES: Written comments should be received on or before December 28, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Automatic Enrollment in Section 403(b) Plans.

OMB Number: 1545–1694.

Form Number: Revenue Ruling 2000–35.

Abstract: Revenue Ruling 2000–35 describes certain criteria that must be met before an employee's compensation can be reduced and contributed to an employee's section 403(b) plan in the absence of an affirmative election by the employee.

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: Not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 53 minutes.

Estimated Total Annual Burden Hours: 175.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 23, 2012.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2012-26562 Filed 10-26-12; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a meeting of the Federal Advisory Committee on Prosthetics and Special-Disabilities Programs will be held on November 8-9, 2012, in Room 730 at 810 Vermont Avenue NW., Washington, DC. The meeting will convene at 8:30 a.m. on both days, and will adjourn at 4:30 p.m. on November 8 and at 12 noon on November 9. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetics programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special-disabilities programs, which are defined as any program administered by the Secretary to serve Veterans with spinal cord injuries, blindness or visual impairments, loss of extremities or loss of function, deafness or hearing

impairment, and other serious incapacities in terms of daily life functions.

On November 8, the Committee will receive briefings on the Physical Therapy Program; Physical Medicine and Rehabilitation; Optometric Services; Rural Health Programs and Spinal Cord Injury/Disorders. On November 9, the Committee will receive a briefing on Rehabilitation and Prosthetic Services.

No time will be allocated for receiving oral presentations from the public. However, members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Mr. Larry N. Long, Designated Federal Officer, Veterans Health Administration, Patient Care Services, Rehabilitation Services (10P4RD), VA, 810 Vermont Avenue NW., Washington, DC, 20420, or by email at lonlar@va.gov. Any member of the public wishing to attend the meeting should contact Mr. Long at (202) 461-7354.

Dated: October 23, 2012.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2012-26446 Filed 10-26-12; 8:45 am]

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Federal Register

Vol. 77, No. 209

Monday, October 29, 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
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FEDERAL REGISTER PAGES AND DATE, OCTOBER

59709-60028.....	1	64693-64888.....	23
60029-60276.....	2	64889-65096.....	24
60277-60602.....	3	65097-65250.....	25
60603-60882.....	4	65251-65454.....	26
60883-61228.....	5	65455-65610.....	29
61229-61506.....	9		
61507-61720.....	10		
61721-62132.....	11		
62133-62416.....	12		
62417-63200.....	15		
63201-63710.....	16		
63711-64022.....	17		
64023-64220.....	18		
64221-64408.....	19		
64409-64692.....	22		

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.

2 CFR		5 CFR	
Proposed Rules:		532.....	63205
1880.....	65500	1200.....	62350
3 CFR		1201.....	62350
Proclamations:		1203.....	62350
8871.....	60277	1208.....	62350
8872.....	60279	1209.....	62350
8873.....	60603	1631.....	60039, 61229
8874.....	60605	7 CFR	
8875.....	60607	301.....	59709
8876.....	60609	331.....	61056
8877.....	60611	8 CFR	
8878.....	60613	217.....	64409
8879.....	60615	9 CFR	
8880.....	60617	121.....	61056
8881.....	62133	10 CFR	
8882.....	62135	50.....	60039
8883.....	62137	429.....	59712, 59719
8884.....	62413	430.....	59712, 59719
8885.....	63201	Proposed Rules:	
8886.....	63203	51.....	65137
8887.....	63709	72.....	63254
8888.....	64021	110.....	64435
8889.....	64218	11 CFR	
8890.....	64407	Proposed Rules:	
8891.....	65093	104.....	65332
8892.....	65095	12 CFR	
8893.....	65459	9.....	61229
Executive Orders:		46.....	61238
13627.....	60029	219.....	65098
13622 (amended by		252.....	62378, 62396
13628).....	62139	325.....	62417
13628.....	62139	380.....	63205
Administrative Orders:		Ch. VI.....	65097
Memorandums:		611.....	60582
Memorandum of		612.....	60582
September 27,		619.....	60582
2012.....	60035	620.....	60582
Memorandum of		630.....	60582
October 10, 2012.....	65455	Proposed Rules:	
Notices:		45.....	60057
Notice of September		48.....	62177
11, 2012		237.....	60057
(corrected).....	60037	324.....	60057, 63763
Notice of October 17,		624.....	60057
2012.....	64221	701.....	65139
Notice of October 24,		702.....	65141
2012.....	65251	741.....	65139, 65141
Order of September		791.....	65141
28, 2012.....	60281	1070.....	64241
Presidential		1221.....	60057
Determinations:		1238.....	60948
No. 2012-17 of		14 CFR	
September 28,		1.....	62147
2012.....	61507	25.....	64023, 64025, 64029
No. 2012-18 of			
September 28,			
2012.....	61509		
No. 2013-01 of			
October 11, 2012.....	65457		

29.....60883	12.....64032	165.....59749, 60042, 60044,	52.....59879, 60085, 60087,
39.....59726, 59728, 59732,	24.....64031	60897, 60899, 60901, 60904,	60089, 60094, 60339, 60661,
60285, 60288, 60296, 60887,	162.....64031	62437, 62440, 62442, 62444,	62191, 62200, 62479, 63781,
60889, 60891, 61511, 63215,	163.....64031	63729, 63732, 63734, 64411,	64445, 64787, 65151, 65341,
63711, 63712, 63714, 63716,	178.....64031	64718, 64720, 64722, 64904,	65346, 65518, 65520, 65521
64693, 64695, 64696, 64699,	Proposed Rules:	64906, 65478	55.....61308
64701, 64704, 64706, 64709,	210.....60952	334.....61721, 61723	58.....64244
64711	20 CFR	Proposed Rules:	60.....65351
61.....61721	655.....60040	110.....60081	63.....60341
71.....61248, 64714, 64889,	21 CFR	161.....64076	80.....61313
65253, 65254, 65255, 65461,	510.....60301, 60622, 64715	165.....60960, 62473, 64943	81.....65151
65462	520.....60622	34 CFR	98.....63538
95.....65256	522.....60301, 64715	36.....60047	180.....63782
97.....59735, 59738, 62427,	524.....60301, 64715	36 CFR	271.....60963, 61326, 65351
62429	529.....64715	7.....60050	272.....59879
121.....63217	558.....60301, 60622, 64715	230.....65103	300.....64790
400.....61513	1308.....64032	Proposed Rules:	41 CFR
440.....63221	Proposed Rules:	7.....62476	300-3.....64430
1204.....60619, 65099	73.....65150	1195.....62479	301-2.....64430
1212.....60620	172.....65340	37 CFR	301-10.....64430
Proposed Rules:	1308.....63766	201.....65260	301-11.....64430
39.....59873, 60060, 60062,	22 CFR	Proposed Rules:	301-52.....64430
60064, 60073, 60075, 60323,	52.....65477	1.....61735, 64190	301-70.....64430
60325, 60331, 60651, 60653,	23 CFR	2.....64190	301-71.....64430
60655, 60658, 61303, 61539,	Proposed Rules:	7.....64190	Proposed Rules:
61542, 61548, 61550, 61731,	771.....59875	10.....64190	301-11.....64791
62182, 62466, 63260, 63262,	1200.....60956	11.....64190	301-74.....64791
63264, 63266, 63268, 63270,	25 CFR	41.....64190	42 CFR
63272, 63275, 63281, 63282,	36.....60041	201.....60333	73.....61084
63285, 64053, 64242, 64437,	542.....60625	38 CFR	88.....62167
64439, 64442, 64763, 64765,	543.....60625	3.....63225	412.....60315, 63751, 64755,
64767, 65142, 65144, 65146,	26 CFR	9.....60304	65495
65148, 65501, 65503, 65506	301.....64033	39 CFR	413.....60315, 64755, 65495
71.....60660, 61304, 61306,	Proposed Rules:	20.....64724, 64725	424.....60315, 65495
62468, 64444, 64919, 65332	1.....59878, 60959, 63287,	111.....65279	476.....60315, 65495
15 CFR	64768	966.....65103	495.....64755
744.....61249	20.....60960	Proposed Rules:	Proposed Rules:
902.....63719	25.....60960	20.....64768	73.....63783
16 CFR	27 CFR	111.....60334, 62446, 63771,	44 CFR
2.....65099	9.....64033	64775	64.....59762, 59764, 61518,
4.....65099	28 CFR	3001.....61307	63753
260.....62122	16.....61275	40 CFR	65.....59767
1101.....61513	29 CFR	9.....61118	Proposed Rules:
Proposed Rules:	1910.....62433	51.....65107	67.....59880, 61559
1112.....64055	1915.....62433	52.....59751, 59755, 60053,	45 CFR
1218.....64055	1926.....62433	60307, 60626, 60627, 60904,	162.....60629
17 CFR	4022.....62433	60907, 60910, 60914, 60915,	2510.....60922
143.....65100	31 CFR	61276, 61279, 61478, 61513,	2522.....60922
232.....62431	29.....64223	61724, 62147, 62150, 62159,	2540.....60922
Proposed Rules:	560.....64664	62449, 62452, 62454, 63228,	2551.....60922
275.....62185	1010.....59747	63234, 63736, 63743, 64036,	2552.....60922
18 CFR	32 CFR	64039, 64237, 64414, 64422,	46 CFR
4.....65463	706.....63224	64425, 64427, 64734, 64737,	1.....59768
5.....65463	Proposed Rules:	64908, 65107, 65119, 65125,	2.....59768
16.....65463	300.....62469	65133, 65294, 65305, 65478,	6.....59768
33.....65463	1285.....62469	65488, 65490, 65493	8.....59768
34.....65463	33 CFR	63.....65135	10.....59768, 62434
35.....61896, 64890, 65463	100.....59749, 60302, 63720,	80.....61281	11.....59768, 62434
157.....65463	63722	81.....65310	12.....59768, 62434
348.....65463	104.....62434	85.....62624	15.....59768, 62434
357.....59739	117.....60896, 63725, 63727,	86.....62624	16.....59768
375.....59745, 65463	64036, 64411	180.....60311, 60917, 61515,	24.....59768
385.....65463	162.....62435	63745, 64911	25.....59768
388.....65463	Proposed Rules:	271.....60919, 65314	26.....59768
Proposed Rules:	100.....59749, 60302, 63720,	272.....59758	27.....59768
40.....64920, 64935	63722	300.....64748	28.....59768
154.....65508	104.....62434	600.....62624	30.....59768
341.....65513	117.....60896, 63725, 63727,	721.....61118	31.....59768
19 CFR	64036, 64411	Proposed Rules:	32.....59768
10.....64031	162.....62435	2.....60902	34.....59768

35.....	59768	161.....	59768	49 CFR	452.....	59768	
39.....	59768	162.....	59768	33.....	59793	453.....	59768
42.....	59768	164.....	59768	40.....	60318	523.....	62624
46.....	59768	167.....	59768	107.....	60935	531.....	62624
50.....	59768	169.....	59768	171.....	60935	533.....	62624
52.....	59768	170.....	59768	172.....	60935	536.....	62624, 64051
53.....	59768	171.....	59768	173.....	60056, 60935	537.....	62624
54.....	59768	172.....	59768	175.....	60935	593.....	59829
56.....	59768	174.....	59768	178.....	60935	821.....	63242, 63245
57.....	59768	175.....	59768	179.....	60935	826.....	63245
58.....	59768	179.....	59768	Ch. III.....	59818, 59840	1022.....	64431
59.....	59768	180.....	59768	303.....	59818	Proposed Rules:	
61.....	59768	188.....	59768	325.....	59818	26.....	65164
62.....	59768	189.....	59768	350.....	59818	107.....	64450
63.....	59768	193.....	59768	355.....	59818	172.....	64450
64.....	59768	194.....	59768	356.....	59818	173.....	64450
67.....	59768	195.....	59768	360.....	59818	175.....	64450
70.....	59768	197.....	59768	365.....	59818, 64050	178.....	64450
71.....	59768	199.....	59768	366.....	59818	213.....	64249
76.....	59768	401.....	59768	367.....	59818	234.....	64077
77.....	59768	502.....	61519, 64758	368.....	59818	395.....	64093
78.....	59768	Proposed Rules:		369.....	59818	595.....	65352
90.....	59768	7.....	59881	370.....	59818	622.....	59875
91.....	59768	8.....	60096	371.....	59818, 64050	50 CFR	
92.....	59768	47 CFR		372.....	59818	14.....	65321
95.....	59768	0.....	60934, 62461	373.....	59818	17.....	60750, 61664, 63604
96.....	59768	4.....	63757	374.....	59818	229.....	60319
97.....	59768	27.....	62461	375.....	59818, 64050	300.....	60631
98.....	59768	64.....	60630, 63240, 65320	376.....	59818	600.....	59842
105.....	59768	73.....	64758	377.....	59818	622.....	60945, 60946, 61295, 62463, 64237
107.....	59768	90.....	61535, 62461	378.....	59818	635.....	59842, 60632, 61727
108.....	59768	Proposed Rules:		379.....	59818	648.....	61299, 64239, 64915, 65136, 65326, 65498
109.....	59768	1.....	60666	380.....	59818	660.....	61728, 63758, 65329
110.....	59768	2.....	62480	381.....	59818	665.....	60637
111.....	59768	15.....	64446	382.....	59818	679.....	59852, 60321, 60649, 61300, 62464, 63719, 64240, 64762, 64917, 64918, 65330
114.....	59768	20.....	61330	383.....	59818, 65497	Proposed Rules:	
117.....	59768	64.....	60343, 65526	384.....	59818	17.....	60180, 60208, 60238, 60510, 60778, 60804, 61375, 61836, 61938, 63440, 63928, 64272
125.....	59768	73.....	59882, 64792, 64946	385.....	59818, 64759	223.....	61559
126.....	59768	74.....	64446	386.....	59818	224.....	61559
127.....	59768	76.....	61351	387.....	59818	622.....	62209, 64300, 65356
128.....	59768	90.....	64446	388.....	59818	635.....	61562
130.....	59768	97.....	64947	389.....	59818	648.....	59883, 64303, 64305
131.....	59768	48 CFR		390.....	59818, 65497	679.....	62482
133.....	59768	504.....	59790	391.....	59818		
134.....	59768	552.....	59790	392.....	59818		
147.....	59768	1812.....	65496	393.....	59818		
148.....	59768	Proposed Rules:		395.....	59818		
150.....	59768	53.....	60343	396.....	59818		
151.....	59768	1552.....	60667	397.....	59818		
153.....	59768			398.....	59818		
154.....	59768			399.....	59818		
159.....	59768			450.....	59768		
160.....	59768			451.....	59768		

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 "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws>.

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S. 3624/P.L. 112-196

Military Commercial Driver's License Act of 2012 (Oct. 19, 2012; 126 Stat. 1459)

Last List October 11, 2012

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