# FEDERAL REGISTER

Vol. 77 Tuesday,
No. 210 October 30, 2012

Pages 65611–65771

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

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

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

## SUBSCRIPTIONS AND COPIES

**PUBLIC**

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | **202–512–1800** |
| Assistance with public subscriptions | **202–512–1806** |

**General online information** **202–512–1530; 1–888–293–6498**

**Single copies/back copies:**

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

**FEDERAL AGENCIES**

**Subscriptions:**

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

**FEDERAL REGISTER WORKSHOP**

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

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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

WHEN: Tuesday, 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. 210

Tuesday, October 30, 2012

**Reader Aids**

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

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

## CFR PARTS AFFECTED IN THIS ISSUE

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

# Rules and Regulations

Federal Register

Vol. 77, No. 210

Tuesday, October 30, 2012



## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2012–0727; Directorate Identifier 2012–NM–012–AD; Amendment 39–17229; AD 2012–21–13]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes. This AD was prompted by reports of fatigue cracks found in Stringer 11 at the outboard flap, inboard drive hinge at Station Xrs=164.000. This AD requires repetitive inspections for cracks in Stringer 11, and a splice repair if necessary; and repetitive post-repair inspections, and repair if necessary. We are issuing this AD to detect and correct such cracking, which could result in the wing structure not supporting the limit load condition, which could lead to loss of structural integrity of the wing.

**DATES:** This AD is effective December 4, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 4, 2012.

**ADDRESSES:** For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Roger Durbin, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: (562) 627–5233; fax: (562) 627–5210; email: *roger.durbin@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on August 1, 2012 (77 FR 45518). That NPRM proposed to require repetitive inspections for cracks in Stringer 11, and a splice repair if necessary; and repetitive post-repair inspections, and repair if necessary.

### Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. Boeing supports the NPRM (77 FR 45518, August 1, 2012).

### Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed—except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 45518, August 1, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 45518, August 1, 2012).

### Costs of Compliance

We estimate that this AD affects 502 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection | 13 work-hours × $85 per hour = $1,105 per inspection cycle. | None | $1,105 per inspection cycle. | $554,710 per inspection cycle. |
| Post-repair inspection. | 13 work-hours × $85 per hour = $1,105 | None | $1,105 | $554,710. |

We estimate the following costs to do any necessary repairs that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this repair:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Splice repair per wing | 93 work-hours × $85 per hour = $7,905 | $17,759 | $25,664 |

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions for the post-repair inspection specified in this 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

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2012–21–13 The Boeing Company:** Amendment 39–17229; Docket No. FAA–2012–0727; Directorate Identifier 2012–NM–012–AD.

**(a) Effective Date**

This AD is effective December 4, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin MD80–57A243, dated December 20, 2011.

**(d) Subject**

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57, Wings.

**(e) Unsafe Condition**

This AD was prompted by reports of fatigue cracks found in Stringer 11 at the outboard flap, inboard drive hinge at Station Xrs=164.000. We are issuing this AD to detect and correct such cracking, which could result in the wing structure not supporting the limit load condition, which could lead to loss of structural integrity of the wing.

**(f) Compliance**

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

**(g) Repetitive Inspections**

Before the accumulation of 19,000 total flight cycles, or within 8,710 flight cycles after the effective date of this AD, whichever occurs later: Do an in-tank eddy current high frequency (ETHF) inspection for cracks in Stringer 11 at the outboard flap, inboard drive hinge at Station Xrs=164.000, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–57A243, dated December 20, 2011. If no cracking is found, repeat the inspection thereafter at intervals not to exceed 29,000 flight cycles.

**(h) Splice Repair**

If any cracking is found during any inspection required by paragraph (g) of this AD: Before further flight, do a splice repair, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–57A243, dated December 20, 2011.

**(i) Post-Repair Inspection**

Within 60,000 flight cycles after doing the splice repair specified in paragraph (h) of this AD: Do an ETHF inspection for cracks in Stringer 11 at the outboard flap, inboard drive hinge at Station Xrs=164.000, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–57A243, dated December 20, 2011. Repeat the inspection thereafter at intervals not to exceed 29,000 flight cycles. If any crack is found: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

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

(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, Los Angeles ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and 14 CFR 25.571, Amendment 45, and the approval must specifically refer to this AD.

**(k) Related Information**

For more information about this AD, contact Roger Durbin, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–

4137; phone (562) 627–5233; fax (562) 627–5210; email: *roger.durbin@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) Boeing Alert Service Bulletin MD80–57A243, dated December 20, 2011.

(ii) Reserved.

(3) For The Boeing Company service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on October 12, 2012.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–26073 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–1104; Directorate Identifier 2012–NM–073–AD; Amendment 39–17226; AD 2012–21–10]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 777–200LR and –300ER series airplanes. This AD requires reviewing the airplane's maintenance records for each rudder power control unit (PCU) to identify the condition of its related reaction link assembly, and replacing the rudder PCU and its related reaction link assembly if necessary. This AD was prompted by a report of an abnormal airframe vibration in the aft fuselage during flight. We are issuing this AD to prevent excessive freeplay in the rudder control surface, which could cause rudder vibration, and result in structural damage severe enough to prevent continued safe flight and landing.

**DATES:** This AD is effective November 14, 2012.

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

We must receive comments on this AD by December 14, 2012.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this 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, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The 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:** Kenneth Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6468; fax: (425) 917–6590; email: *Kenneth.frey@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We have received a report of an abnormal airframe vibration in the aft fuselage during flight. A subsequent inspection of the rudder PCU installations found that the bushing liners were missing from all six end cap assemblies on the three rudder PCUs. An investigation revealed that the cause of the problem was failure of the bond between the liner and the bushing substrate because of the use of liquid nitrogen during installation of the bushing into the reaction link end cap housing. This condition, if not corrected, could result in excessive freeplay in the rudder control surface, which could cause rudder vibration, and result in structural damage severe enough to prevent continued safe flight and landing.

### Relevant Service Information

We reviewed Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011. The service information describes procedures, for airplanes having certain line numbers, for reviewing the airplane's maintenance records for each rudder PCU to identify the condition of its related reaction link assembly, and replacing the rudder PCU and its related reaction link assembly if necessary.

### FAA's Determination

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

### AD Requirements

This AD requires accomplishing the actions specified in the service information described previously.

### FAA's Justification and Determination of the Effective Date

No U.S. airplanes are affected by this AD. Therefore, we find that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

### Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an

opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include docket number FAA–2012–1104 and Directorate Identifier 2012–NM–073–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this 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 AD.

## Costs of Compliance

We estimate that this AD affects 0 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Review of the airplane's maintenance records | 1 work-hour × $85 per hour = $85 | $0 | $85 |
| Replacement | 12 work-hours × $85 per hour = $1,020 | 5,784 | 6,804 |

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2012–21–10 The Boeing Company:** Amendment 39–17226; Docket No. FAA–2012–1104; Directorate Identifier 2012–NM–073–AD.

**(a) Effective Date**

This AD is effective November 14, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 777–200LR and –300ER series airplanes, certificated in any category, identified in Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011.

**(d) Subject**

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 27, Flight controls.

**(e) Unsafe Condition**

This AD was prompted by a report of an abnormal airframe vibration in the aft fuselage during flight. We are issuing this AD to prevent excessive freeplay in the rudder control surface, which could cause rudder vibration, and result in structural damage severe enough to prevent continued safe flight and landing.

**(f) Compliance**

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

**(g) Review of the Maintenance Records**

Within 48 months after the effective date of this AD, review the airplane's maintenance records for each rudder power control unit (PCU) to identify the condition of its related reaction link assembly, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011.

**(h) Corrective Action**

(1) For any reaction link assembly identified during the records review required by paragraph (g) of this AD as having Condition 4, as specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011: Within 48 months after the effective date of this AD, remove the affected rudder PCU and its related reaction link assembly, and install a serviceable rudder PCU and its related reaction link assembly, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011.

(2) The replacement PCU reaction link assembly must meet Condition 1, 2, or 3 of Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011. As an alternative, the bushings in the PCU reaction link assembly may be replaced in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011.

**(i) Parts Installation Limitations**

As of the effective date of this AD, no person may install a rudder PCU and its related reaction link assembly identified in Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011, on any airplane, unless that rudder PCU and its related reaction link assembly meet Condition 1, 2, or 3, of Part 1 of the Accomplishment

Instructions of Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011.

**(j) Alternative Methods of Compliance (AMOCs)**

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

**(k) Related Information**

For more information about this AD, contact Kenneth Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6468; fax: (425) 917–6590; email: *Kenneth.frey@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) Boeing Alert Service Bulletin 777–27A0109, dated December 1, 2011.

(ii) Reserved.

(3) 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.*

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

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

Issued in Renton, Washington, on October 11, 2012.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–26074 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–0146; Directorate Identifier 2011–NM–115–AD; Amendment 39–17227; AD 2012–21–11]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes. This AD was prompted by reports of deformation at the neck of the pressure regulator body on the oxygen cylinder and regulator assemblies (CRAs), and an electrical wiring harness in the area of the oxygen cylinder with no protective conduit sleeving. This AD requires inspecting to determine if certain oxygen pressure regulators are installed and replacing oxygen CRAs containing pressure regulators that do not meet the required material properties. This AD also requires inspecting for damaged wiring, and repairing or replacing wiring if necessary. We are issuing this AD to prevent rupture of the oxygen cylinder, which in the case of cabin depressurization, would lead to oxygen not being available when required; and to detect and correct unprotected wiring that could chafe against the oxygen system components or surrounding structure in the area, and lead to electrical arcing and an oxygen-fed fire.

**DATES:** This AD becomes effective December 4, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 4, 2012.

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

**FOR FURTHER INFORMATION CONTACT:** Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 22, 2012 (77 FR 10413). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> During a routine inspection, deformation was found at the neck of the pressure regulator body on the oxygen Cylinder and Regulator Assemblies (CRA) of a BD–700–1A11 aeroplane.
>
> An investigation by the vendor, Avox Systems Inc., revealed that the deformation was attributed to two (2) batches of raw material that did not meet the required tensile strength. This may cause elongation of the pressure regulator neck, which could result in rupture of the oxygen cylinder, and in the case of cabin depressurization, oxygen would not be available when required.
>
> Although there have been no reported failures to date on any CL–600–2B16 aeroplanes, oxygen pressure regulators, Part Numbers (P/N) 806370–12, could be part of the affected batches.
>
> It has also been found that the electrical wiring harness in the area of the oxygen cylinder has been installed without protection. Unprotected wiring could chafe against the oxygen system components or surrounding structure in the area, which could lead to electrical arcing and an oxygen fed fire.
>
> This [Transport Canada Civil Aviation (TCCA)] directive mandates [an inspection to determine if a certain oxygen CRA is installed and] the replacement of oxygen CRAs containing pressure regulators that do not meet the required material properties and to [do a general visual inspection of] and protect the affected wiring.

Corrective actions include repairing or replacing any damaged wiring. You may obtain further information by examining the MCAI in the AD docket.

### Comments

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

### Request To Limit Applicability

Bombardier requested that we remove the CL–601–3A and –3R Variants of Model CL–600–2B16 airplanes from the

applicability of the NPRM (77 FR 10413, February 22, 2012), because the serial numbers identified in the MCAI include only the CL–604 Variant of Model CL–600–2B16 airplanes.

We do not agree to remove the CL–601–3A and –3R Variants of Model CL–600–2B16 airplanes from the applicability of this AD. The commenter is correct that the serial number range captures only the CL–604 Variant. However, we included the other variants in the applicability of this AD to prevent someone from installing the affected parts on those other variants in the future. We have coordinated this difference with TCCA.

To make this intent more visible, we have added ''CL–604 Variant'' to the heading and first sentence of paragraphs (g) and (h) of this AD, and ''All Airplanes'' and ''CL–601–3A, CL–601–3R, and CL–604 Variants'' to the heading and first sentence respectively of paragraph (j) of this AD.

## Explanation of Additional Change Made to This AD

We have revised the heading for and the wording in paragraph (i) of this AD; this change has not affected the intent of that paragraph.

## Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 10413, February 22, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 10413, February 22, 2012).

## Costs of Compliance

We estimate that this AD will affect about 72 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $6,120, or $85 per product.

In addition, we estimate that certain follow-on actions (wiring protection) would take about 2 work-hours and require parts costing $0, for a cost of $170 per product. We have no way of determining the number of products that may need these actions.

We have received no definitive data that would enable us to provide cost estimates for certain other on-condition actions (repairing or replacing damaged wiring) specified in this 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 determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 10413, February 22, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

# PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2012–21–11 Bombardier, Inc.:** Amendment 39–17227. Docket No. FAA–2012–0146; Directorate Identifier 2011–NM–115–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective December 4, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc. Model CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) airplanes, certificated in any category; serial numbers 5701 through 5802 inclusive, 5804 through 5808 inclusive, 5810 through 5816 inclusive, 5819, 5822, and 5823 and subsequent.

**(d) Subject**

Air Transport Association (ATA) of America Codes 24, Electrical power; and 35, Oxygen.

**(e) Reason**

This AD was prompted by reports of deformation at the neck of the pressure regulator body on the oxygen cylinder and regulator assemblies (CRAs), and an electrical wiring harness in the area of the oxygen cylinder with no protective conduit sleeving. We are issuing this AD to prevent rupture of the oxygen cylinder, which in the case of cabin depressurization, would lead to oxygen not being available when required; and to detect and correct unprotected wiring that could chafe against the oxygen system components or surrounding structure in the area, and lead to electrical arcing and an oxygen-fed fire.

**(f) Compliance**

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

**(g) Inspection and Replacement of Oxygen CRA, CL–604 Variant**

For CL–604 Variant airplanes with serial numbers 5701 through 5802 inclusive, 5804 through 5808 inclusive, 5810 through 5816 inclusive, 5819, 5822, and 5823: Within 750 flight hours after the effective date of this AD, but no later than 6 months after the effective date of this AD, inspect the serial number of oxygen pressure regulators having part number (P/N) 806370–12, in accordance with the Accomplishment Instructions, paragraph 2.B.(3), of Bombardier Service Bulletin 605–35–001, Revision 01, dated February 28, 2011. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the oxygen pressure regulator can be conclusively determined from that review.

(1) If any serial number is found that is listed in table 2 of Section 2.B. of the Accomplishment Instructions of Bombardier Service Bulletin 605–35–001, Revision 01, dated February 28, 2011, before further flight, replace the affected oxygen CRA, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 605–35–001, Revision 01, dated February 28, 2011.

(2) If any serial number is found that is not listed in table 2 of Section 2.B. of the Accomplishment Instructions of Bombardier Service Bulletin 605–35–001, Revision 01, dated February 28, 2011, no further action is required by this paragraph.

**(h) Inspection and Corrective Action of the Oxygen CRA Wiring Harness, CL–604 Variant**

For CL–604 Variant airplanes with serial numbers 5701 through 5778 inclusive, 5780 through 5796 inclusive, 5798, 5800 through 5802 inclusive, 5804, 5805, 5808, 5811, and 5813: At the applicable compliance time specified in paragraph (h)(1) or (h)(2) of this AD, do a detailed inspection for damaged wiring (i.e., signs of damaged insulation, abrasion, or chafing) of the electrical wiring harness for the oxygen CRA, and protect the electrical wiring harness, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 605–24–005, dated January 31, 2011. If any damaged wiring is found, before further flight, repair or replace any damaged wiring, in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(1) For airplanes on which the oxygen CRA must be replaced, as required by paragraph (g)(1) of this AD: At the time the oxygen CRA is replaced.

(2) For airplanes other than those identified in paragraph (h)(1) of this AD: Within 800 flight hours after the effective date of this AD.

**(i) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 605–35–001, dated January 31, 2011.

**(j) Parts Installation Limitation, All Airplanes**

For all airplanes (CL–601–3A, CL–601–3R, and CL–604 Variants): As of the effective date of this AD, no person may install an oxygen pressure regulator (P/N 806370–12) having any serial number listed in table 2 of Section 2.B. of the Accomplishment Instructions of Bombardier Service Bulletin 605–35–001, Revision 01, dated February 28, 2011, on any airplane, unless a suffix ''-A'' is beside the serial number.

**(k) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

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

**(l) Related Information**

Refer to MCAI Canadian Airworthiness Directive CF–2011–11, dated May 25, 2011, and the service bulletins identified in paragraphs (l)(1) and (l)(2) of this AD, for related information.

(1) Bombardier Service Bulletin 605–24–005, dated January 31, 2011.

(2) Bombardier Service Bulletin 605–35–001, Revision 01, dated February 28, 2011.

**(m) Material Incorporated by Reference**

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

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

(i) Bombardier Service Bulletin 605–24–005, dated January 31, 2011.

(ii) Bombardier Service Bulletin 605–35–001, Revision 01, dated February 28, 2011.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com*; Internet *http://www.bombardier.com.*

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

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

Issued in Renton, Washington, on October 11, 2012.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–26075 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2012–0726; Directorate Identifier 2012–NM–023–AD; Amendment 39–17228; AD 2012–21–12]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This AD was prompted by cases of on-ground failure of the screw cap or end cap of hydraulic accumulators on other airplane models, resulting in high-energy impact damage to adjacent systems and structure. This AD requires inspecting for a part number and replacing the affected parking brake hydraulic accumulator, and relocating the parking brake accumulator, on the subject airplanes. We are issuing this AD to prevent failure of the screw caps and/or end caps of the parking brake hydraulic accumulator, which could result in damage to the airplane's primary structures, with potential adverse effect on the airplane's controllability.

**DATES:** This AD becomes effective December 4, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 4, 2012.

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

**FOR FURTHER INFORMATION CONTACT:** Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531; email *Cesar.Gomez@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on August 2, 2012 (77 FR 45981). That NPRM proposed to correct an unsafe condition for the specified products. The Mandatory Continuing Airworthiness Information (MCAI) states:

> Seven cases of on-ground hydraulic accumulator/screw cap/end cap failure have been experienced on CL–600–2B19 (CRJ) aeroplanes, resulting in loss of the associated hydraulic system and high-energy impact damage to adjacent systems and structure. To date, the lowest number of flight cycles accumulated at the time of failure has been 6991.
>
> Although there have been no failures to date on any DHC–8 aeroplanes, similar accumulators to those installed on the CL–600–2B19, Part Number (P/N) 08–60197–001 (Parking Brake Accumulator), are installed on the aeroplanes listed in the Applicability section of this [Canadian] Airworthiness Directive (AD). It was also found that some of these accumulators may be affected by manufacturing non-conformances.
>
> A detailed analysis of the systems and structure in the potential line of trajectory of a failed screw cap/end cap for the accumulator has been conducted. It has been identified that the worst-case scenarios would be the damage to the aeroplane's primary structures, which could have an adverse effect on the controllability of the aeroplane.
>
> This [Canadian] AD mandates the [inspection for part and serial numbers and] replacement of the affected hydraulic accumulators and the relocation of the parking brake accumulator.

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

## Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 45981, August 2, 2012) or on the determination of the cost to the public.

## Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed–except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 45981, August 2, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 45981, August 2, 2012).

## Costs of Compliance

We estimate that this AD will affect about 83 products of U.S. registry. We also estimate that it will take about 17 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $5,205 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $551,950, or $6,650 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $4,643, for a cost of $4,898 per product. We have no way of determining the number of products that may need these actions.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

## Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 45981, August 2, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2012–21–12 Bombardier, Inc.:** Amendment 39–17228. Docket No. FAA–2012–0726; Directorate Identifier 2012–NM–023–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective December 4, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 through 4346 inclusive.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by cases of on-ground hydraulic accumulator/screw cap/end cap failure, resulting in high-energy impact damage to adjacent systems and structure. We are issuing this AD to prevent failure of the screw caps and/or end caps of the hydraulic and parking brake accumulators, which could result in damage to the airplane's primary structures, with potential adverse effect on the airplane's controllability.

**(f) Compliance**

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

**(g) Inspection/Replacement of the Parking Brake Hydraulic Accumulator**

For airplanes having serial numbers 4001 through 4337 inclusive: Within 1,200 flight hours or 6 months after the effective date of this AD, whichever comes first, inspect the parking brake hydraulic accumulator to determine the part number and serial number, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–88, dated February 16, 2011.

(1) If the part number of the parking brake hydraulic accumulator can be determined by the inspection required by paragraph (g) of this AD, and is not identified in paragraph 1., Effectivity, of Goodrich Service Bulletin 08 60197 001–32–70 R2, dated February 1, 2011: No further action is required by this paragraph.

(2) If the part number and serial number of the parking brake hydraulic accumulator cannot be determined by the inspection required by paragraph (g) of this AD, or is identified in paragraph 1. Effectivity, of Goodrich Service Bulletin 08 60197 001–32–70 R2, dated February 1, 2011: Before further flight, replace the parking brake hydraulic accumulator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–88, dated February 16, 2011.

**(h) Relocation of the Parking Brake Hydraulic Accumulator**

(1) For airplanes having serial numbers 4001 through 4068 inclusive, 4070 through 4214 inclusive, 4216, 4219 through 4261 inclusive, and 4263 through 4346 inclusive: Within 6,000 flight hours after the effective date of this AD, relocate the parking brake hydraulic accumulator, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–87, Revision B, dated November 22, 2011.

(2) Accomplishing the actions specified in paragraph (h)(1) of this AD in accordance with previous revisions of Bombardier Service Bulletin 84–32–87 does not meet the requirements of paragraph (h)(1) of this AD.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

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

**(j) Related Information**

Refer to MCAI Canadian Airworthiness Directive CF–2012–04, dated January 13, 2012, and the service information identified in paragraphs (j)(1) through (j)(3) of this AD, for related information.

(1) Bombardier Service Bulletin 84–32–87, Revision B, dated November 22, 2011.

(2) Bombardier Service Bulletin 84–32–88, dated February 16, 2011.

(3) Goodrich Service Bulletin 08 60197 001–32–70 R2, dated February 1, 2011.

**(k) Material Incorporated by Reference**

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

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

(i) Bombardier Service Bulletin 84–32–87, Revision B, dated November 22, 2011.

(ii) Bombardier Service Bulletin 84–32–88, dated February 16, 2011.

(iii) Goodrich Service Bulletin 08 60197 001–32–70 R2, dated February 1, 2011.

(3) For Bombardier, Inc., service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* For Goodrich service information identified in this AD, contact Goodrich Corporation, Landing Gear, 1400 South Service Road, West Oakville L6L 5Y7, Ontario, Canada; telephone 905–825–1568; email *jean.breed@goodrich.com;* Internet *http://www.goodrich.com/TechPubs.*

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

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

Issued in Renton, Washington, on October 11, 2012.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2012–26077 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2012–0895]**

## Drawbridge Operation Regulations; Taunton River, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation; request for comments.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Veterans Memorial Bridge across the Taunton River, mile 2.1, between Fall River and Somerset, Massachusetts. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow us to test an operating schedule to help determine the hours the bridge should be crewed. It is expected that this test will help determine the best operating schedule that will meet the present and future needs of navigation.

**DATES:** This deviation is effective from December 1, 2012, through May 29, 2013.

Comments and related material must be received by the Coast Guard on or before June 1, 2013. Requests for public meetings must be received by the Coast Guard on or before March 1, 2013.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–0895 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. John McDonald, Project Officer, First Coast Guard District bridge Program the Coast Guard; telephone 617–223–8364, email *john.w.mcdonald@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

## A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

### *1. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0895), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* insert ''USCG–2012–0895'' in the Search box, click ''Search,'' look for this notice of deviation in the docket and click on the ''submit a comment'' box on that same line. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

### *2. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* insert ''USCG–2012–0895'' in the Search box, and click ''Search.'' You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

### *3. 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).

### *4. Public Meeting*

We do not now plan to hold a public meeting. But you may submit a request for one on or before March 1, 2013, using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## B. Basis and Purpose

The Veterans Memorial Bridge at mile 2.1, across the Taunton River between Somerset and Fall River, Massachusetts, has a vertical clearance of 60 feet at mean high water and 66 feet at mean low water. The horizontal clearance is 200 feet between the bridge protective fenders. The drawbridge operation regulations listed at 33 CFR 117.5, require the bridge to open on signal at all times.

The waterway users are predominantly seasonal recreational vessels.

The Veterans Memorial Bridge is a newly constructed double leaf bascule highway bridge at mile 2.1, upstream from the existing Brightman Street Route 6 highway bridge at mile 1.8, across the Taunton River.

The owner of the bridge, Massachusetts Department of Transportation, submitted a request to the Coast Guard to change the drawbridge operating regulations that presently require the draw to be crewed 24 hours a day and open on signal at all times.

The bridge owner proposes to crew the bridge less than 24 hours a day and operate the bridge as follows: The draw shall open on signal between 5 a.m. and 9 p.m. daily. From 9 p.m. through 5 a.m., the draw shall open on signal after at least a 1-hour advance notice is given by calling the number posted at the bridge. From 6 p.m. on December 24 to midnight on December 25, and from 6 p.m. on December 31 to midnight on January 1, the draw shall open on signal if at least a 2-hour advance notice is given by calling the number posted at the bridge.

The Coast Guard has decided to test the designated operating hours for the new bridge for 180 days to help determine if this schedule will meet the reasonable needs of navigation that presently transit the new bridge. Since this is a new bridge there is no historical record of bridge openings to help us determine if this request is reasonable.

It is anticipated that due to the high vertical clearance of 60 feet at mean high water and 66 feet at mean low, that the bridge should not be required to open frequently except for large sail vessels.

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

Dated: October 16, 2012.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 2012–26600 Filed 10–29–12; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2011–0906]**

**RIN 1625–AA87**

## Security Zone; Cruise Ships, Santa Barbara Harbor, Santa Barbara, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard has established fixed security zones around and under any cruise ships visiting Santa Barbara Harbor, Santa Barbara, California. This regulation was created for national security reasons to protect cruise ships, vessels, users of the waterway and the port from potential terrorist acts. These security zones encompass all navigable waters from the surface to the sea floor within a 100-yard radius of any cruise ship located within 3 nautical miles of the Santa Barbara Harbor Breakwater Light (Light List Number 3750). Mariners can determine the exact time and date of these zones via Broadcast Notice to Mariners, or via visual verification of the cruise ships on AIS. Entries into these zones are prohibited unless specifically authorized by the Captain of the Port (COTP) Los Angeles—Long Beach (LA–LB), or his designated representative.

**DATES:** This rule is effective November 29, 2012.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2011–0906]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LTJG Brett DiManno, USCG, Waterways Management, U.S. Coast Guard Sector Los Angeles—Long Beach at (310) 521–3860, or *Brett.M.DiManno@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

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

### A. Regulatory History and Information

This rule was proposed and published in the **Federal Register** on June 20, 2012 (77 FR 36955). Previously, temporary security zones had been established for cruise ships operating in Santa Barbara.

### B. Basis and Purpose

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress added section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Magnuson Act (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

In order to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against a cruise ship would have on the public interest, the Coast Guard has established security zones around and under cruise ships visiting Santa Barbara Harbor, Santa Barbara, California. This security zone helps the Coast Guard to prevent vessels or persons from engaging in terrorist actions against cruise ships. The Coast Guard has determined the establishment of security zones is prudent for cruise ships because they carry a multitude of passengers.

Based on experience with security zone enforcement operations, the Captain of the Port (COTP) Los Angeles—Long Beach has concluded that these security zones will encompass all navigable waters from the surface to the sea floor within a 100-yard radius of any cruise ship which is located within 3 nautical miles of the Santa Barbara Harbor Breakwater Light (Light List Number 3750; 34–24–17.364 N, 119–41–16.260W). These security zones are necessary to provide for the safety of the cruise ship, vessels, and users of the waterway.

### C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received one comment to the proposed rule. The comment suggested that Automatic Identification System (AIS) be used to advertise the location of the security zone. The Coast Guard agrees in principle with the comment; however, we made no regulatory changes. While mariners with AIS may be able to locate cruise ships in the Santa Barbara area, the majority of boaters will be able to locate the cruise ships visually, due to the small geographic size and depth restrictions of the harbor. In an effort to keep mariners informed, the Coast Guard will continue to advertise active security zones via broadcast notice to mariner.

### D. Regulatory Analyses

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

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation restricts access to a portion of navigable waters, the effect of this regulation is not significant because:

(i) The zones only encompass a small portion of the waterway;

(ii) vessels are able to pass safely around the zones; and

(iii) vessels may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port

(COTP) Los Angeles—Long Beach, or his designated representative.

The size of the zone is the minimum necessary to provide adequate protection for all cruise ships and other vessels operating in the vicinity of these vessels, adjoining areas, and the public. The entities most likely to be affected are fishing vessels and pleasure craft engaged in recreational activities and sightseeing.

*2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in Santa Barbara Harbor within a 100-yard radius of cruise ships covered by this rule.

This security zone regulation will not have a significant economic impact on a substantial number of small entities because vessel traffic can pass safely around the zones.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

*3. Assistance for Small Entities*

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

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

*4. Collection of Information*

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

*5. Federalism*

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

*6. Protest Activities*

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

*7. Unfunded Mandates Reform Act*

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

*8. Taking of Private Property*

This rule does cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

*9. Civil Justice Reform*

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

*10. Protection of Children*

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

*11. Indian Tribal Governments*

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

*12. Energy Effects*

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

*13. Technical Standards*

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

*14. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of security zones.

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.1157 to read as follows:

**§ 165.1157 Security Zone; Cruise Ships, Santa Barbara, California.**

(a) *Location.* The following areas are security zones: All navigable waters, from the surface to the sea floor within a 100-yard radius of any cruise ship located within 3 nautical miles of the Santa Barbara Harbor Breakwater Light (Light List Number 3750; 34–24–17.364 N, 119–41–16.260W).

(b) *Definition.* ''Cruise ship'' as used in this section means any vessel, except for a ferry, over 100 feet in length, authorized to carry more than 12 passengers for hire; making voyages lasting more than 24 hours, any part of which is on the high seas; and for which passengers are embarked or disembarked in the U.S. or its territories.

(c) *Regulations.* (1) Under general security zone regulations in subpart D, entry into or remaining in the zones described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port (COTP) Los Angeles—Long Beach (LA–LB), or a designated representative of COTP LA–LB.

(2) Persons desiring to transit the area of the security zone may contact the COTP LA–LB at telephone number 1–310–521–3801 or on VHF–FM channel 16 (156.800 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, or his designated representative.

Dated: October 1, 2012.

**J.D. Jenkins,**

*Captain, U.S. Coast Guard, Captain of the Port Los Angeles—Long Beach.*

[FR Doc. 2012–26599 Filed 10–29–12; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket No. USCG–2012–0885]**

**RIN 1625–AA87**

## Security Zones; USCGC WILLIAM FLORES Commissioning Ceremony, Ybor Channel; Tampa, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone on the waters of Ybor Channel in Tampa, Florida around the USCGC WILLIAM FLORES immediately before and during its Commissioning Ceremony that will be held on November 3, 2012, in the Port of Tampa, on Ybor Channel at Channelside Cruise Terminal 3, located in position 27°56.598′ N, 082°26.724′ W. The security zone will be enforced from 8 a.m. to 4 p.m. and is necessary to protect USCGC WILLIAM FLORES, official parties, dignitaries, the public, and surrounding waterways from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature. Entering or remaining in the security zone is prohibited unless authorized by the Captain of the Port St. Petersburg or a designated representative.

**DATES:** This rule is effective and will be enforced on November 3, 2012, from 8 a.m. until 4 p.m.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0885. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary final rule, call or email Boatswains Mate Second Class Gregory A. Belkin, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191 Ext. 8158, email *D07-SMB-Tampa-WWM@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

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

### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard did not have necessary information regarding the event with sufficient time to publish an NPRM and to receive public comments in advance of the effective date of the security zone. Any delay in the effective date of this rule would be contrary to the public interest as immediate action is needed to protect USCGC WILLIAM FLORES, official parties, dignitaries, visiting officials, the public, and the surrounding waterway from sabotage or other subversive acts, accidents, or other causes of a similar nature.

### B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of this rule is to protect USCGC WILLIAM FLORES, official parties, dignitaries, visiting officials, the public, and the surrounding waterway from potential terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature.

### C. Discussion of the Final Rule

On November 3, 2012, the USCGC WILLIAM FLORES Commissioning Ceremony will be held in the Port of Tampa, on Ybor Channel at Channelside Cruise Terminal 3, located in position 27°56.598′ N, 082°26.724′ W. The temporary security zone encompasses

all waters of Ybor Channel within a 250-yard radius of USCGC WILLIAM FLORES. The security zone will be enforced from 8 a.m. until 4 p.m. on November 3, 2012. No vessels will be authorized to transit the security zone from 10 a.m. until 11 a.m. The security zone may cease to be enforced prior to the end of the stated enforcement period if the commissioning ceremony has concluded, and the USCGC WILLIAM FLORES and visiting officials are departed ahead of schedule.

All persons and vessels are prohibited from entering or remaining in the security zone unless authorized by the Captain of the Port St. Petersburg or a designated representative. Persons and vessels desiring to enter or remain in the security zone may contact the Captain of the Port St. Petersburg by telephone at (727) 824–7524, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter or remain within the regulated areas is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. Recreational vessels authorized to enter or remain within the regulated areas may be subject to boarding and inspection of the vessel and persons onboard. The Coast Guard will provide notice of the security zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

**D. Regulatory Analyses**

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

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) The security zone will be enforced for a total of 8 hours; (2) the security zone will be in a location where commercial vessel traffic is expected to be minimal; (3) commercial vessel traffic may be authorized to transit the security zones to the extent compatible with public safety and security; (4) persons and vessels will be able to operate in the surrounding area adjacent to the security zones during the enforcement period; (5) persons and vessels will be able to enter or remain within the security zones if authorized by the Captain of the Port St. Petersburg or a designated representative; and (6) the Coast Guard would provide advance notification of the security zone to the local community by Broadcast Notice to Mariners.

*2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter or remain within those portions of Ybor Channel encompassed within the security zone from 8 a.m. through 4 p.m. on November 3, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

*3. Assistance for Small Entities*

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

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

*4. Collection of Information*

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

*5. Federalism*

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

*6. Protest Activities*

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

*7. Unfunded Mandates Reform Act*

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

*8. Taking of Private Property*

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

*9. Civil Justice Reform*

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

*10. Protection of Children*

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

*11. Indian Tribal Governments*

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

*12. Energy Effects*

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

*13. Technical Standards*

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

*14. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing temporary security zone, as described in paragraph 34(g) of the Instruction that will be enforced for a total of 8 hours. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Commandant Instruction. An environmental analysis checklist and categorical exclusion determination supporting this determination are available in the docket where indicated under **ADDRESSES**.

**List of Subjects in 33 CFR Part 165**

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

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0922 to read as follows:

**§ 165.T07–0922 Security Zones; USCGC WILLIAM FLORES Commissioning Ceremony, Ybor Channel; Tampa, FL.**

(a) *Regulated Areas.* The following regulated area is a security zone: all waters of Ybor Channel encompassed by a 250-yard radius around USCGC WILLIAM FLORES at Channelside Cruise Terminal 3 in the Port of Tampa, located in position 27°56.598′ N, 082°26.724′ W. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard boat coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officials designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels desiring to enter or remain within the regulated area may contact the Captain of the Port St. Petersburg by telephone at (727) 824–7524, or a designated representative via VHF radio on channel 16, to request authorization.

(2) If authorization to enter or remain within the regulated area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. Recreational vessels authorized to enter the regulated area may be subject to boarding and inspection of the vessel and persons onboard.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective date.* This rule is effective and will be enforced from 8 a.m. through 4 p.m. on November 3, 2012.

Dated: October 18, 2012.

**S.L. Dickinson,**

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

[FR Doc. 2012–26604 Filed 10–29–12; 8:45 am]

BILLING CODE 9110–04–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

## Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Determination of Attainment of the One-Hour Ozone Standard for the Portsmouth-Dover-Rochester and Manchester Areas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is making four separate and independent air quality determinations for two areas in New Hampshire. First, EPA is determining that the Portsmouth-Dover-Rochester, New Hampshire serious one-hour ozone nonattainment area met the applicable deadline of November 15, 1999, for attaining the revoked one-hour National Ambient Air Quality Standard (NAAQS) for ozone. Second, EPA is determining that the Portsmouth-Dover-Rochester area has attained the one-hour ozone standard since 1999, and continues to attain the standard. Third, with respect to the Manchester, New Hampshire marginal one-hour ozone nonattainment area, EPA is determining that the area attained the one-hour ozone NAAQS by the applicable deadline of November 15, 1993. Fourth, with respect to the Manchester area, EPA is determining that the area has attained the one-hour ozone NAAQS since 1993, and continues to attain the standard.

**DATES:** This rule is effective on November 29, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2012–0229. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA

New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912, telephone number (617) 918–1664, fax number (617) 918–0664, email *Burkhart.Richard@epa.gov*.

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

Organization of this document. The following outline is provided to aid in locating information in this preamble.



## I. What actions is EPA taking?

### *A. Portsmouth-Dover-Rochester Area*

EPA is making two separate and independent final determinations for the Portsmouth-Dover-Rochester serious one-hour ozone nonattainment area (hereafter, ''the Portsmouth area''). EPA is determining that the Portsmouth area attained the revoked one-hour ozone NAAQS by the applicable deadline of November 15, 1999. This determination is based upon complete, quality-assured and certified air quality monitoring data for the 1997–1999 ozone seasons showing that the area had an expected ozone exceedance rate below the level of the now revoked one-hour ozone NAAQS during that period and therefore attained the standard by its applicable deadline. EPA is also determining that the Portsmouth area has attained the standard based on complete, certified and quality-assured ozone monitoring data since 1999, and that it continues to attain the standard based on the most recent three years of complete, quality-assured and certified ozone monitoring data (2009–2011). In addition, preliminary 2012 ozone data show the area continues to attain.

### *B. Manchester Area*

EPA is making two separate and independent final determinations for the Manchester, NH marginal one-hour ozone nonattainment area. EPA is determining that the Manchester marginal one-hour ozone nonattainment area attained the one-hour ozone NAAQS by the applicable deadline of November 15, 1993. This determination is based upon complete, certified, quality-assured ambient air quality monitoring data for the 1991–1993 ozone seasons showing that the area had an expected ozone exceedance rate below the level of the now revoked one-hour ozone NAAQS during that period, and therefore attained the standard by its applicable deadline. EPA is also determining that the Manchester area has attained the one-hour ozone standard since 1993, and continues to attain the standard based on the most recent three years of complete, quality-assured and certified ozone monitoring data (2009–2011). In addition, preliminary 2012 ozone data show the area continues to attain.

Additional information related to these determinations and the rationale for them are set forth in the Notice of Proposed Rulemaking (NPR) published on July 19, 2012 (77 FR 42470) and will not be restated here. EPA received no comments on the NPR.

## II. What is the effect of these actions?

After revocation of the one-hour ozone standard, EPA must continue to provide a mechanism to give effect to the one-hour anti-backsliding requirements. See *SCAQMD* v. *EPA,* 472 F.3d 882, at 903 (D.C. Cir. 2006). In keeping with this responsibility, EPA has determined that the Portsmouth-Dover-Rochester serious one-hour ozone nonattainment area attained the one-hour ozone standard by the area's applicable attainment date of November 15, 1999. In this context, EPA has also determined that there are no additional obligations under the revoked one-hour ozone standard, including those relating to one-hour ozone contingency measures, for the Portsmouth-Dover-Rochester one-hour ozone nonattainment area. EPA is also determining that the Manchester area attained the one-hour ozone standard by the area's applicable attainment date of November 15, 1993. As a marginal area, Manchester was not subject to any requirement for contingency measures, and EPA has determined that the area has no additional obligations under the revoked one-hour ozone standard.

## III. Final Actions

EPA is making four separate and independent determinations. First, EPA is determining that the Portsmouth, NH serious one-hour ozone nonattainment area met the applicable deadline of November 15, 1999, for attaining the one-hour NAAQS for ozone, based on 1997–1999 complete, certified and quality-assured ozone monitoring data. Second, EPA is determining that the Portsmouth, NH area has attained the standard based on complete, certified and quality-assured ozone monitoring data since 1999, and that it continues to attain the standard based on the most recent three years of complete, quality-assured ozone monitoring data. In addition, preliminary 2012 ozone data show the area continues to attain. Third, EPA is determining that the Manchester, NH marginal ozone nonattainment area met the applicable deadline of November 15, 1993, for attaining the revoked one-hour ozone NAAQS. This determination is based upon complete, certified, quality-assured ambient air quality monitoring data for the 1991–1993 monitoring period showing that the area had an expected ozone exceedance rate below the level of the now revoked one-hour ozone NAAQS during that period and therefore attained the standard by its applicable deadline. Fourth, with respect to the Manchester area, EPA is determining, that the area has attained the one-hour ozone standard since 1993, and continues to attain the standard based on the most recent three years of complete, quality-assured and certified ozone monitoring data. In addition, preliminary 2012 ozone data show the area continues to attain.

## IV. Statutory and Executive Order Reviews

These actions make determinations of attainment based on air quality, and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not ''significant regulatory actions'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

• Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 31, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

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

Dated: October 15, 2012.

**H. Curtis Spalding,**

*Regional Administrator, EPA New England.*

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

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart EE—New Hampshire

■ 2. Section 52.1534 is amended by adding paragraphs (g) and (h) to read as follows:

**§ 52.1534 Control strategy: Ozone.**

* * * * *

(g) *Determination of Attainment.* Effective November 29, 2012, EPA is determining that the Portsmouth-Dover-Rochester one-hour ozone nonattainment area met the one-hour ozone standard, by the area's applicable attainment date of November 15, 1999, based on 1997–1999 complete, certified, quality-assured ozone monitoring data at all monitoring sites in the area. Separate from and independent of this determination, EPA is determining that the Portsmouth-Dover-Rochester serious one-hour ozone nonattainment area has attained the one-hour ozone standard since 1999 and continues to attain based on complete, quality-assured data ozone monitoring data through 2011.

(h) *Determination of Attainment.* Effective November 29, 2012, EPA is determining that the Manchester one-hour ozone nonattainment area met the one-hour ozone standard, by the area's applicable attainment date of November 15, 1993, based on 1991–1993 complete, certified, quality-assured ozone monitoring data at all monitoring sites in the area. Separate from and independent of this determination, EPA is determining that the Manchester marginal one-hour ozone nonattainment area has attained the one-hour ozone standard, since 1993, and that it continues to attain based on complete quality-assured ozone monitoring data through 2011.

[FR Doc. 2012–26524 Filed 10–29–12; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R03–OAR–2012–0169; FRL–9745–5]**

## Approval and Promulgation of Air Quality Implementation Plans; Virginia; Deferral for $CO_2$ Emissions From Bioenergy and other Biogenic Sources Under the Prevention of Significant Deterioration Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Virginia Department of Environmental Quality (VADEQ) on December 14, 2011. This revision defers until July 21, 2014 the application of the Prevention of Significant Deterioration (PSD) permitting requirements to biogenic carbon dioxide ($CO_2$) emissions from bioenergy and other biogenic stationary sources in the Commonwealth of Virginia. This action is being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 29, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2012–0169. 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:** David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. On April 18, 2012, (77 FR 23178), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of a revision to the Virginia SIP which would defer until July 21, 2014 the application of PSD permitting requirements to biogenic $CO_2$ emissions from bioenergy and other biogenic stationary sources in the commonwealth of Virginia. Other specific requirements of Virginia's SIP revision and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. The formal SIP revision was submitted by VADEQ on December 14, 2011.

## II. Summary of SIP Revision

EPA incorporated the biomass deferral into the regulations governing state programs and into the Federal PSD program by amending the definition of ''subject to regulation'' under 40 CFR 51.166 and 52.21 respectively. Virginia has adopted this same approach. The SIP revision incorporates the Biomass Deferral into Virginia's PSD program by amending the definition of ''subject to regulation'' under 9VAC5–85–50C. The language adopted by Virginia mirrors the language in the Federal regulations. EPA last took action on these provisions on May 13, 2011 (76 FR 27898). In addition to the incorporation of the Biomass Deferral, the SIP revision makes a minor, clarifying revision to 9VAC5–85–50B.

## III. 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 the Commonwealth from enforcing its PSD 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.

## IV. EPA's Response to Comments Received on the Proposed Action

EPA received two sets of timely public comments. Both sets were supportive of our proposed action, and are included in the docket. While it is not generally our practice to respond to specific comments when those comments are in support of a proposed action, one of the submitted comments contained some factual inaccuracies which we feel should be addressed and corrected for the record. One commenter wrote in closing: ''Because the PSD provisions of the Biomass Deferral have already been incorporated into Virginia's SIP and approved by EPA in 2011, the current 2012 proposed SIP revisions incorporate the Title V provisions of the Biomass Deferral through (*sic*) amendments to 9VAC5 Chapter 85, Permits For Stationary Sources of Pollutants Subject to Regulation, Part II—Federal (Title V) Operating Permit Actions. We agree with EPA's conclusion that the proposed Title V amendments to Virginia's SIP are consistent with federal requirements and should therefore be approved as proposed.'' EPA did not ''incorporate the PSD provisions of the Biomass Deferral into Virginia's SIP in 2011.'' Indeed, as we stated in our notice of proposed rulemaking and reiterated earlier, the purpose of the present rulemaking action is to incorporate the Biomass Deferral provisions into the Virginia SIP. It is not clear to which 2011 action the commenter is referring. On May 13, 2011, EPA took final action to approve the Tailoring Rule provisions into the Virginia SIP (76 FR 27898). However, the Biomass Deferral is a separate rulemaking action and was not addressed at that time. Furthermore, as we stated in our notice of proposed rulemaking, the present rulemaking action does not address the title V provisions of the Biomass Deferral, and addresses only Virginia's PSD program (*See,* 77 FR 23179, Footnote No. 1).

## V. Final Action

EPA is approving the revisions to 9VAC5–85–50 into the Virginia SIP.

## VI. 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 31, 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 GHG permitting under Virginia's PSD program 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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 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 (c) is amended by revising the entry for Chapter 85, Section 5–85–50 to read as follows:

**§ 52.2420 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

| State citation | Title/subject | State effective date | EPA approval date | Explanation [former SIP citation] |
|---|---|---|---|---|
| * * | * | * | * | * * |
| 9 VAC 5, Chapter 85 | Permits for Stationary Sources of Pollutants Subject to Regulation | | | |
| * * | * | * | * | * * |
| Part III | Prevention of Significant Deterioration Permit Actions | | | |
| * * | * | * | * | * * |
| 5–85–50 | Definitions | 11/9/11 | 10/30/12 [Insert page number where the document begins]. | Revised definition of ''subject to regulation.'' |
| * * | * | * | * | * * |

* * * * *

[FR Doc. 2012–26539 Filed 10–29–12; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2010–0152; FRL–9746–1]**

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory portion of the District of Columbia State Implementation Plan (SIP) revision submitted by the District of Columbia, through the District Department of the Environment (DDOE), on April 2, 2008. The emissions inventory is part of the April 2, 2008 SIP revision that was submitted to meet nonattainment requirements related to the District of Columbia's portion of the Washington DC–MD–VA nonattainment area (hereafter referred to as DC Area or Area) for the 1997 $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) SIP. EPA is approving the 2002 base year $PM_{2.5}$ emissions inventory in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 29, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2010–0152. 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 District of Columbia Department of the Environment, Air Quality Division, 1200 1st Street NE., 5th floor, Washington, DC 20002.

**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 August 23, 2012 (77 FR 50964), EPA published a notice of proposed rulemaking (NPR) for the District of Columbia. The NPR proposed approval of the 2002 base year emissions inventory portion of the District of Columbia SIP revision. The formal SIP revision was submitted by the District of Columbia on April 2, 2008.

### II. Summary of SIP Revision

The 2002 base year emissions inventory submitted by DDOE on April 2, 2008 includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides ($NO_X$), volatile organic compounds (VOCs), $PM_{2.5}$, coarse particles ($PM_{10}$), ammonia ($NH_3$), and sulfur dioxide ($SO_2$). EPA has reviewed the results, procedures and methodologies for the base year emissions inventory submitted by DDOE. The year 2002 was selected by DDOE as the base year for the emissions inventory per 40 CFR 51.1008(b). A discussion of the emissions inventory development as well as the emissions inventory can be found in Appendix B of the April 2, 2008 SIP submittal and in the NPR. Specific requirements of the base year inventory and the rationale for EPA's action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

### III. Final Action

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

### IV. Statutory and Executive Order Reviews

#### *A. General Requirements*

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

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

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

#### *B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 31, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to the $PM_{2.5}$ 2002 base year emissions inventory portion of the District of Columbia SIP may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: 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 J—District of Columbia

■ 2. In § 52.470, the table in paragraph (e) is amended by adding at the end of the table an entry for 2002 Base Year Emissions Inventory for the 1997 fine particulate matter ($PM_{2.5}$) standard to read as follows:

**§ 52.470 Identification of plan.**

* * * * *

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

| Name of non-regulatory SIP revision | Applicable geographic area | State submittal date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| * * | * * | * | * | * |
| 2002 Base Year Emissions Inventory for the 1997 fine particulate matter ($PM_{2.5}$) standard. | District of Columbia portion of the Washington DC–MD–VA 1997 $PM_{2.5}$ nonattainment area. | 4/2/08 | 10/30/12 [*Insert page number where the document begins*]. | § 52.474(e) |

■ 3. In § 52.474, paragraph (e) is added to read as follows:

**§ 52.474 Base Year Emissions inventory.**

* * * * *

(e) EPA approves as a revision to the District of Columbia State Implementation Plan the 2002 base year emissions inventory for the District of Columbia portion of the Washington DC–MD–VA 1997 fine particulate matter ($PM_{2.5}$) nonattainment area submitted by the District Department of the Environment on April 2, 2008. The 2002 base year emissions inventory includes emissions estimates that cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides ($NO_X$), volatile organic compounds (VOCs), $PM_{2.5}$, coarse particles ($PM_{10}$), ammonia ($NH_3$), and sulfur dioxide ($SO_2$).

[FR Doc. 2012–26530 Filed 10–29–12; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

## Maritime Administration

## 46 CFR Part 327

**[Docket No. MARAD 2012–0005]**

**RIN 2133–AB79**

## Retrospective Review Under E.O. 13563: Seamen's Claims; Admiralty Extension Act Claims; and Admiralty Claims

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** In accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' the Maritime Administration (MarAd) solicited public comment concerning clarification of its regulations pertaining to seamen's claims, administrative action taken against MarAd, and litigation pertaining to such matters. No comments were received as a result of the agency's solicitation. By this rulemaking, MarAd is updating and modernizing the existing regulations and adopting a procedural process to more effectively address claims arising under the Suits in Admiralty Act, the Admiralty Extension Act and the Clarification Act. The existing regulations implement the Clarification Act. The newly added regulations implement a process to resolve administrative claims arising under the Admiralty Extension Act, and both the Suits in Admiralty Act and the Public Vessels Act, respectively.

**DATES:** This rule is effective November 29, 2012.

**FOR FURTHER INFORMATION CONTACT:** You may contact Jay Gordon, Assistant Chief Counsel for Litigation and General Law, at (202) 366–5173. You may send mail to Mr. Gordon at Office of Chief Counsel, MAR–221, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. You may send electronic mail to *jay.gordon@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

On January 18, 2011, President Obama issued Executive Order 13563, which outlined a plan to improve regulation and regulatory review (76 FR 3821, January 21, 2011). Executive Order 13563 reaffirms and builds upon governing principles of contemporary regulatory review, including Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993), by requiring Federal agencies to design cost-effective, evidence-based

regulations that are compatible with economic growth, job creation, and competitiveness. The President's plan recognizes that these principles should not only guide the Federal government's approach to new regulations, but to existing ones as well. To that end, Executive Order 13563 requires agencies to review existing significant rules to determine if they are outmoded, ineffective, insufficient, or excessively burdensome.

Accordingly, the Maritime Administration identified its administrative claims regulations governing seaman's administrative actions and claim litigation for improvement consistent with the President's order. 46 CFR Part 327 prescribes rules and regulations pertaining to the filing of admiralty claims and the administrative allowance or disallowance (actual or presumed) of such claims, in whole or in part. The existing Part 327 addresses only Seamen's Claims. The proposed rule was published February 2, 2012 (77 FR 5217). This Final Rule divides Part 327 into three subparts, all of which are related to admiralty claims. Subpart A addresses Seamen's Claims governed by the Clarification Act, 50 U.S.C. 1291(a). Subpart B addresses claims filed under the Admiralty Extension Act, 46 U.S.C. 30101, a statutory provision which extends the admiralty and maritime jurisdiction of the United States to cases of injury or damage to a person or property caused by a vessel on navigable waters, even though the injury or damage is done or consummated on land. Subpart C establishes a procedure for filing administrative claims for all admiralty claims not covered by Subparts A or B, or the Contracts Disputes Act (41 U.S.C. 601 *et seq.*).

The filing of proper administrative claims under Subparts A and B must take place before filing suit against the United States. For example, under the Clarification Act, before suit can be filed against the United States, there must be a denial of an administrative claim filed by officers and members of crews injured aboard MarAd vessels. Before suit can be filed against the United States under the Admiralty Extension Act, there must be an administrative denial of a claim filed under that Act or 6 months must have passed after the claim is presented in writing to the agency. The new Subpart C establishes an optional procedure whereby anyone having an admiralty claim not covered by either Subparts A, B or under the Contracts Disputes Act can file an administrative claim with MarAd.

Subpart A of Part 327 has also been updated to include technical changes such as MarAd's new address at 1200 New Jersey Avenue and to include corrections to statutory references, some of which were made obsolete as the result of the codification of the Appendix to title 46 of the United States Code. In addition to these technical changes, MarAd modernizes the regulation by allowing the use of pictures and video recordings as evidence in administrative actions and litigation. The current regulations do not provide for the use of such evidence. The new regulation also requires that the seamen filing claims sign the claims and verify that they are correct.

Subpart B sets out specific details concerning compliance with the administrative claim requirement of the Admiralty Extension Act, 46 U.S.C. 30301(c)(2), with respect to filing suit against the United States. Under this provision, no civil suit can be filed against the United States ''until the expiration of the 6-month period after the claim has been presented in writing to the agency owning or operating the vessel causing the injury or damage.''

Subpart C provides a means whereby an administrative claim can be filed with respect to any other admiralty matters not addressed in Subparts A and C or in the Contracts Disputes Act (41 U.S.C. 601 *et. seq.*). This will provide a means to address administratively admiralty claims made by other persons or legal entities such as longshoremen and harbor workers, contractors, invitees injured aboard vessels, and the owners of damaged vessels filing claims governed by the Suits in Admiralty Act (46 U.S.C. 30901 *et seq.*) and the Public Vessels Act (46 U.S.C.A. 31101 *et seq.*).

## Rulemaking Analysis and Notices

### *Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review) and DOT Regulatory Policies and Procedures*

Under E.O. 12866 (58 FR 51735, October 4, 1993), supplemented by E.O.13563 (76 FR 3821, January 18, 2011) and DOT policies and procedures, MarAd must determine whether a regulatory action is ''significant,'' and therefore subject to OMB review and the requirements of the E.O. The Order defines ''significant regulatory action'' as one likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities. (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency. (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

MarAd has determined that this final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, it was not reviewed by the Office of Management and Budget. This final rule will not result in an annual effect on the economy of $100 million or more. It also is not considered a major rule for purposes of Congressional review under Public Law 104–121. The rule is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979). The costs and overall economic impact of this rulemaking do not require further analysis.

### *Executive Order 13132 (Federalism)*

We analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism'') and have determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This rule has no substantial effect on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Nothing in this document preempts any State law or regulation. Therefore, MarAd did not consult with State and local officials because it was not necessary.

### *Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

MarAd does not believe that this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

### *Executive Order 12372 (Intergovernmental Review)*

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on

Federal programs and activities do not apply to this rule.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 requires MarAd to assess whether this rule would have a significant economic impact on a substantial number of small entities and to minimize any adverse impact. MarAd certifies that this rule will not have a significant economic impact on a substantial number of small entities.

*Environmental Assessment*

We have analyzed this final rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.)* and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order (MAO) 600–1, ''Procedures for Considering Environmental Impacts,'' 50 FR 11606 (March 22, 1985), neither the preparation of an Environmental Assessment, an Environmental Impact Statement, nor a Finding of No Significant Impact for this rulemaking is required. This rulemaking has no environmental impact.

*Executive Order 13211 (Energy Supply, Distribution, or Use)*

MarAd has determined that the rule would not significantly affect energy supply, distribution, or use. Therefore, no Statement of Energy Effects is required.

*Executive Order 13045 (Protection of Children)*

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, requires agencies issuing ''economically significant'' rules that involve an environmental health or safety risk that may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. As discussed previously, this rule is not economically significant, and it would cause no environmental or health risk that disproportionately affects children.

*Executive Order 12988 (Civil Justice Reform)*

This action meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

*Executive Order 12630 (Taking of Private Property)*

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

*National Technology Transfer and Advancement Act*

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) requires Federal agencies adopting Government technical standards to consider whether voluntary consensus standards are available. If the Agency chooses to adopt its own standards in place of existing voluntary consensus standards, it must explain its decision in a separate statement to OMB. MarAd determined that there are no voluntary national consensus standards related to the filing of the seamen's claims, administrative actions and Admiralty Extension Act claims addressed by this regulation.

*International Trade Impact Assessment*

This rule is not expected to contain standards-related activities that create unnecessary obstacles to the foreign commerce of the United States.

*Privacy Impact Assessment*

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108–447, div. H, 118 Stat. 2809 at 3268) requires the Department of Transportation and certain other Federal agencies to conduct a privacy impact assessment of each rule that will affect the privacy of individuals. Claims submitted under this rule will be treated the same as all legal claims received by MarAd. The processing and treatment of any claim within the scope of this rulemaking by MarAd shall comply with all legal, regulatory and policy requirements regarding privacy.

*Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. This rule provides regulatory clarification to seamen's claims, administrative action procedures and Admiralty Extension Claim procedures. This rulemaking contains no new or amended information collection or recordkeeping requirements that have been approved or require approval by the Office of Management and Budget.

*Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 requires Agencies to evaluate whether an Agency action would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $141.3 million or more (as adjusted for inflation) in any 1 year, and if so, to take steps to minimize these unfunded mandates. This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

*Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects in 46 CFR Part 327**

Administrative practice and procedures, Claims, Seaman.

■ Accordingly, the Maritime Administration revises part 327 of 46 CFR, to read as follows:

## PART 327—SEAMEN'S CLAIMS; ADMINISTRATIVE ACTION AND LITIGATION

### Subpart A—Clarification Act Claims: Seamen's Claims; Administrative Action and Litigation



### Subpart B—Admiralty Extension Act Claims; Administrative Action and Litigation

**Subpart C—Other Admiralty Claims**



**Authority:** 46 U.S.C. Chapters 301–309.

## Subpart A—Clarification Act Claims: Seamen's Claims; Administrative Action and Litigation.

### § 327.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 and the administrative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and members of crews (hereafter referred to as ''seamen'') employed on vessels as employees of the United States through the National Shipping Authority (NSA), Maritime Administration (MarAd), or successor.

### § 327.2 Statutory provisions.

These regulations are enacted to implement the administrative claims procedures set forth in 50 U.S.C. App. 1291(a).

### § 327.3 Required claims submission.

All claims specified in 50 U.S.C. App. 1291(a) shall be submitted for administrative consideration, as provided in §§ 327.4 and 327.5, prior to institution of court action thereon.

### § 327.4 Claim requirements.

(a) *Form.* The claim may be in any form and shall be

(1) In writing,

(2) Designated as a claim,

(3) Disclose that the object sought is the administrative allowance of the claim,

(4) Comply with the requirements of this part, and

(5) Filed as provided in § 327.5.

(6) The claim must be signed or attested to by the claimant. The statements made in the claim should be made to the best of the knowledge of the claimant and are subject to the provision of 18 U.S.C. 287 and 1001 and all other penalty provisions for making false, fictitious, or fraudulent claims, statements or entries, or falsifying, concealing, or covering up a material fact in any matter within the jurisdiction of any department or agency of the United States. Any lawsuits filed contrary to the provisions of section 5 of the Suits in Admiralty Act, as amended by Public Law 877, 81st Congress (64 Stat. 1112; 46 U.S.C. 30901 *et seq.*), shall not be in compliance with the requirements of this part.

(b) *Contents.* Each claim shall include the following information:

(1) With respect to the seaman:

(i) Name;

(ii) Mailing address;

(iii) Date of birth;

(iv) Legal residence address;

(v) Place of birth; and

(vi) Merchant mariner license or document number and social security number.

(2) With respect to the basis for the claim:

(i) Name of vessel on which the seaman was serving when the incident occurred that is the basis for the claim;

(ii) Place where the incident occurred;

(iii) Time of incident—year, month and day, and the precise time of day, to the minute, where possible;

(iv) Narrative of the facts and circumstances surrounding the incident, including a statement explaining why the United States is liable for this claim;

(v) Pictures, video recordings and other physical evidence related to the case and

(vi) The names, addresses, and telephone numbers, if available, of others who can supply factual information about the incident and its consequences.

(3) A sum certain dollar amount of claim, which includes a total for all amounts sought. The claim shall explain the amounts sought for:

(i) Past loss of earnings or earning capacity;

(ii) Future loss of earnings or earning capacity;

(iii) Medical expenses paid out of pocket;

(iv) Pain and suffering; and

(v) Any other loss arising out of the incident (describe).

(4) All medical and clinical records of physicians and hospitals related to a seaman's claim for injury, illness, or death shall be attached. If the claimant does not have a copy of each record, the claimant shall identify every physician and hospital having records relating to the seaman and shall provide written authorization for MarAd to obtain all such records. The claim shall also include the number of days the seaman worked as a merchant mariner and the earnings received for the current calendar year, as well as for the two preceding calendar years.

(5) If the claim does not involve a seaman's death, the following information shall be submitted with the claim:

(i) Date the seaman signed a reemployment register as a merchant mariner;

(ii) Copy of the medical fit-for-duty certificate issued to the seaman;

(iii) Date and details of next employment as a seaman; and

(iv) Date and details of next employment as other than a seaman.

(6) If the claim is for other than personal injury, illness or death, the claim shall provide all supporting information concerning the nature and dollar amount of the loss.

### § 327.5 Filing claims.

(a) Claims may be filed by or on behalf of seamen or their surviving dependents or beneficiaries, or by their legal representatives. Claims shall be filed either by personal delivery or by registered mail.

(b) The claimant shall send the claim directly to the Chief, Division of Marine Insurance, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590. A copy of each claim shall be filed with the Ship Manager or General Agent of the vessel with respect to which such claim arose.

### § 327.6 Notice of allowance or disallowance.

MarAd shall give prompt notice in writing of the allowance or disallowance of each claim, in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of administrative disallowance, in whole or in part, such notice shall contain a brief statement of the reason for such disallowance.

### § 327.7 Administrative disallowance presumption.

If MarAd fails to give written notice of allowance or disallowance of a claim in accordance with § 327.6 within sixty (60) calendar days following the date of the receipt of such claim by the proper person designated in § 327.5, such claim

shall be presumed to have been ''administratively disallowed,'' within the meaning in section 1(a) of 50 U.S.C. App. 1291(a).

**§ 327.8 Court action.**

(a) No seamen, having a claim specified in subsections (2) and (3) of section 1(a) of 50 U.S.C. App. 1291(a), their surviving dependents and beneficiaries, or their legal representatives shall institute a court action for the enforcement of such claim unless such claim shall have been prepared and filed in accordance with §§ 327.4 and 327.5 and shall have been administratively disallowed in accordance with § 327.6 or 327.7.

(b) This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 and the administrative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and members of crews (hereafter referred to as ''seamen'') employed on vessels through the National Shipping Authority (NSA), Maritime Administration (MarAd), or successor organization.

## Subpart B—Admiralty Extension Act Claims; Administrative Action and Litigation

**§ 327.20 Admiralty Jurisdiction Extension Claims: Required claims.**

(a) Pursuant to 46 U.S.C. 30101(c) of the Admiralty Extension Act (AEA), administrative claims involving the extension of admiralty jurisdiction to cases of damage or injury on land caused by a Maritime Administration vessel on navigable waters must be presented in writing to the Maritime Administration in accordance with §§ 327.20 through 327.34 prior to institution of a court action thereon.

(b) A civil action against the United States for injury or damage done or consummated on land by a vessel on navigable waters may not be brought until the earlier occurrence of either the denial of the claim by the Maritime Administration or the presumptive denial of the claim which arises 6 months after the claim has been presented in writing to the Maritime Administration. 46 U.S.C. 30101(c)(2). Note that the 6 month period of review will not begin until a valid claim is filed pursuant to § 327.25.

(c) Proceedings against the United States pursuant to the requirements of the AEA and these regulations is the exclusive remedy available against the United States of America, acting by and through the Maritime Administration, with respect to such injuries and damages.

**§ 327.21 Definitions.**

The following definitions apply to this subpart:

(a) *Accrual date.* The day on which the alleged wrongful act or omission results in injury or damage for which a claim is made.

(b) *Claim.* A written notification of an incident, signed by the claimant, describing the incident and explaining why the United States is liable. The claim shall be accompanied by a demand for the payment of a sum certain of money, with a statement as to how that sum certain was calculated and all documents supporting the amount claimed. Where damages for medical injuries are made, the doctor's statement relating the injuries to the accident should be attached as well as medical release forms for each treating physician, hospital, and medical care provider.

**§ 327.22 Who may present claims.**

(a) *General rules.* (1) A claim for property loss or damage may be presented by anyone having an interest in the property, including an insurer or other subrogee.

(2) A claim for personal injury may be presented by the person injured.

(3) A claim based on death may be presented by the executor or administrator of the decedent's estate, or any other person legally entitled to assert such a claim under local law. The claimant's status must be stated in the claim.

(4) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has, in fact, incurred the expenses.

(b) A joint claim must be presented in the names of and signed by, the joint claimants, and the settlement will be made payable to the joint claimants.

(c) A claim may be presented by a duly authorized agent, legal representative or survivor, if it is presented in the name of the claimant. If the claim is not signed by the claimant, the agent, legal representative, or survivor shall indicate their title or legal capacity and provide evidence of their authority to present the claim.

(d) Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, they must be combined in one claim.

**§ 327.23 Insurance and other subrogated claims.**

(a) The claims of an insured (subrogor) and an insurer (subrogee) for damages arising out of the same incident constitute a single claim.

(b) An insured (subrogor) and an insurer (subrogee) may file a claim jointly or separately. If the insurer has fully reimbursed the insured, payment will only be made to the insurer. If separate claims are filed, the settlement will be made payable to each claimant to the extent of that claimant's undisputed interest. If joint claims are filed, the settlement will be sent to the insurer.

(c) Each claimant shall include with a claim, a written disclosure concerning insurance coverage including:

(1) The names and addresses of all insurers;

(2) The kind and amount of insurance;

(3) The policy number;

(4) Whether a claim has been or will be presented to an insurer, and, if so, the amount of that claim; and whether the insurer has paid the claim in whole or in part, or has indicated payment will be made.

(d) Each subrogee shall substantiate an interest or right to file a claim by appropriate documentary evidence and shall support the claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subrogor does not constitute evidence of liability of the United States or conclusive evidence of the amount of damages. The Maritime Administration makes an independent determination on the issues of fact and law based upon the evidence of record.

**§ 327.24 Actions by claimant.**

(a) *Form of claim.* The claim must meet the requirements of this section.

(b) *Presentation.* The claim must be presented in writing to the Office of Chief Counsel, Attn. Chief Counsel, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590–0001.

**§ 327.25 Contents of a claim.**

(a) A valid claim will contain the following:

(1) Identification of the Maritime Administration as the agency whose act or omission gave rise to the claim;

(2) The full name and mailing address of the claimant. If this mailing address is not claimant's residence, the claimant shall also include residence address;

(3) The date, time, and place of the incident giving rise to the claim;

(4) The amount claimed, in a sum certain, supported by independent

evidence of property damage or loss, personal injury, or death, as applicable together with supporting medical records and a HIPPA compliant medical waiver for each treating physician or hospital;

(5) A detailed description of the incident giving rise to the claim and the factual basis upon which it is claimed the Maritime Administration is liable for the claim;

(6) A description of any property damage or loss, including the identity of the owner, if other than the claimant, as applicable;

(7) The nature and extent of the injury, as applicable;

(8) The full name, title, if any, and address of any witness to the incident and a brief statement of the witness' knowledge of the incident;

(9) A description of any insurance carried by the claimant or owner of the property and the status of any insurance claim arising from the incident; and

(10) An agreement by the claimant to accept the total amount claimed in full satisfaction and final settlement of the claim, lien or subrogation claim on the claimed amount, or any assignment of the claim.

(b) A claimant or duly authorized agent or legal representative must sign in ink a claim and any amendment to that claim. The claim shall include a statement that the information provided is true and correct to the best of the claimant's knowledge, information, and belief. If the person's signature does not include the first name, middle initial, if any, and surname, that information must be included in the claim. A married woman must sign her claim in her given name, *e.g.,* ''Mary A. Doe,'' rather than ''Mrs. John Doe.''

**§ 327.26 Evidence supporting a claim.**

(a) The claimant shall present any evidence in the claimant's possession that supports the claim. This evidence shall include, if available, statements of witnesses, accident or casualty reports, photographs and drawings.

(b) Notwithstanding anything in the regulations in this subpart, the claimant shall provide such additional reasonable documents and evidence as requested by the Maritime Administration with respect to the claim. Failure to respond to reasonable requests for additional information and documentation can result in a determination that a valid claim has not been submitted.

**§ 327.27 Proof of amount claimed for personal injury.**

The following evidence must be presented when appropriate in claims:

(a) Itemized medical, hospital, and burial bills.

(b) A written report by the attending physician including:

(1) The nature and extent of the injury and the treatment;

(2) The necessity and reasonableness of the various medical expenses incurred;

(3) Duration of time injuries prevented or limited employment;

(4) Past, present, and future limitations on employment;

(5) Duration and extent of pain and suffering and of any disability or physical disfigurement;

(6) A current prognosis;

(7) Any anticipated medical expenses;

(8) Any past medical history of the claimant relevant to the particular injury alleged; and

(9) If required by the Maritime Administration, an examination by an independent medical facility or physician to provide independent medical evidence against which to evaluate the written report of the claimant's physician. The Maritime Administration determines the need for this examination, makes mutually convenient arrangements for such an examination, and bears the costs thereof.

(c) All hospital records or other medical documents from either this injury or any relevant past injury.

(d) If the claimant is employed, a written statement by the claimant's employer certifying the claimant's:

(1) Age;

(2) Occupation;

(3) Hours of employment;

(4) Hourly rate of pay or weekly salary;

(5) Time lost from work as a result of the incident; and

(6) Claimant's actual period of employment, full-time or part-time, and any effect of the injury upon such employment to support claims for lost earnings.

(e) If the claimant is self-employed, written statements, or other evidence showing:

(1) The amount of earnings actually lost; and

(2) The Federal tax return if filed for the three previous years.

(f) If the claim arises out of injuries to a person providing services to the claimant, statement of the cost necessarily incurred to replace the services to which claimant is entitled under law.

**§ 327.28 Proof of amount claimed for loss of, or damage to, property.**

The following evidence must be presented when appropriate:

(a) For each particular lost item, evidence of its value such as a bill of sale and a written appraisal, or two written appraisals, from separate disinterested dealers or brokers, market quotations, commercial catalogs, or other evidence of the price at which like property can be obtained in the community. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any appraisal may be included as an element of damage if not deductible from any bill submitted to claimant.

(b) For each particular damaged item which can be economically repaired, evidence of cost of repairs such as a receipted bill and one estimate, or two estimates, from separate disinterested repairmen. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any estimate may be included as an element of damage if not deductible from any repair bill submitted to claimant.

(c) For any claim for property damage which may result in payment in excess of $20,000.00, a survey or appraisal shall be performed as soon as practicable after the damage accrues, and, unless waived in writing, shall be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it shall be treated as a lost item.

(e) If a claim includes loss of earnings or use during repairs to the damaged property, the following must also be furnished and supported by competent evidence:

(1) The date the property was damaged;

(2) The name and location of the repair facility;

(3) The beginning and ending dates of repairs and an explanation of any delay between the date of damage and the beginning date;

(4) A complete description of all repairs performed, segregating any work performed for the owner's account and not attributable to the incident involved, and the costs thereof;

(5) The date and place the property was returned to service after completion of repairs, and an explanation, if applicable, of any delay;

(6) Whether or not a substitute for the damaged property was available. If a substitute was used by the claimant during the time of repair, an explanation of the necessity of using the substitute, how it was used, and for how long, and the costs involved. Any costs incurred that would have been similarly incurred by the claimant in using the damaged property must be identified;

(7) Whether or not during the course of undergoing repairs the property would have been used, and an explanation submitted showing the identity of the person who offered that use, the terms of the offer, time of prospective service, and rate of compensation; and

(8) If at the time of damage the property was under charter or hire, or was otherwise employed, or would have been employed, the claimant shall submit a statement of operating expenses that were, or would have been, incurred. This statement shall include wages and all bonuses which would have been paid, the value of fuel and the value of consumable stores, separately stated, which would have been consumed, and all other costs of operation which would have been incurred including, but not limited to, license and parking fees, personnel expenses, harbor fees, wharfage, dockage, shedding, stevedoring, towage, pilotage, inspection, tolls, lockage, anchorage and moorage, grain elevation, storage, and customs fees.

(f) For each item which is lost, actual or constructive, proof of ownership.

**§ 327.29 Effect of other payments to claimant.**

The total amount to which the claimant may be entitled is normally computed as follows:

(a) The total amount of the loss, damage, or personal injury suffered for which the United States is liable, less any payment the claimant has received from the following sources:

(1) The military member or civilian employee who caused the incident;

(2) The military member's or civilian employee's insurer; and

(3) Any joint tort-feasor or insurer.

(b) No deduction is generally made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

**§ 327.30 Statute of limitations for AEA and claim requirements.**

A civil suit must be filed within two years of the Accrual Date. No civil suit may be brought until the earlier occurrence of either the denial of a claim or the presumptive denial of the claim after 6 months from the date the claim was properly presented in writing to the Maritime Administration.

**§ 327.31 Statute of limitations not tolled by administrative consideration of claims.**

The statute of limitations for filing a civil action under 46 U.S.C. 30101(b) is not tolled by MarAd's administrative consideration of a claim.

**§ 327.32 Notice of claim acceptance or denial.**

The Maritime Administration shall give prompt notice in writing of the acceptance or denial of each claim in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of denial, such notice shall contain a brief statement of the reason for such a denial.

**§ 327.33 Claim denial presumption.**

If the Maritime Administration fails to give written notice of acceptance or denial of a claim in accordance with § 327.30 within 6 months following the date of receipt of such a claim by the proper person designated in § 327.24(b), such claim shall be presumed to have been denied by the Maritime Administration.

**§ 327.34 Court action.**

No person, surviving dependent or beneficiary, or legal representative, having a claim specified under 46 U.S.C. 30101(a) against the Maritime Administration, shall institute a court action against the Maritime Administration unless an administrative claim has previously been properly presented and filed in accordance with § 327.22, § 327.23, and § 327.24, and such administrative claim has been subsequently denied in accordance with § 327.32 or § 327.33.

## Subpart C—Other Admiralty Claims

**§ 327.40 Other Admiralty claims.**

(a) Admiralty claims caused by United States owned and operated vessels on navigable waters or otherwise that are not covered under the Clarification Act (50 U.S.C. app. 1291(a)), the Admiralty Extension Act (46 U.S.C. 30101) or the Contracts Disputes Act (41 U.S.C. 601 *et. seq.*) may be filed with the Maritime Administration in accordance with §§ 327.40 through 327.52.

(b) A civil action against the United States for admiralty claims caused by United States owned and operated vessels on navigable waters or otherwise that are not covered under the Clarification Act (50 U.S.C. App. 1291(a)), the Admiralty Extension Act (46 U.S.C. 30101) or the Contracts Disputes Act (41 U.S.C. 601 *et. seq.*) may be brought without the filing of an administrative claim. This Part III sets forth the optional procedure for filing such claims with the Maritime Administration in advance of litigation. Once litigation is filed, the authority to handle such claims is vested with the Justice Department, not the agency.

(c) Proceeding against the United States pursuant to the requirements this Part III is not a requirement for filing suit against the United States of America, acting by and through the Maritime Administration, with respect to such admiralty claims.

**§ 327.41 Definitions.**

The following definitions apply to this subpart:

(a) *Accrual date.* The day on which the alleged wrongful act or omission results in injury or damage for which a claim is made.

(b) *Claim.* A written notification of an incident, signed by the claimant, describing the incident and explaining why the United States is liable. The claim shall be accompanied by a demand for the payment of a sum certain of money, with a statement as to how that sum certain was calculated and all documents supporting the amount claimed. Where damages for medical injuries are made, the doctor's statement relating the injuries to the accident should be attached as well as medical release forms for each treating physician, hospital, and medical care provider.

**§ 327.42 Who may present claims.**

(a) *General rules.* (1) A claim for property loss or damage may be presented by anyone having an interest in the property, including an insurer or other subrogee.

(2) A claim for personal injury may be presented by the person injured.

(3) A claim based on death may be presented by the executor or administrator of the decedent's estate, or any other person legally entitled to assert such a claim under local law. The claimant's status must be stated in the claim.

(4) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has, in fact, incurred the expenses.

(5) A joint claim must be presented in the names of and signed by, the joint claimants, and the settlement must be made payable to the joint claimants.

(b) A claim may be presented by a duly authorized agent, legal representative or survivor, if it is presented in the name of the claimant. If the claim is not signed by the claimant, the agent, legal representative, or survivor shall indicate their title or legal capacity and provide evidence of their authority to present the claim.

(c) Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the

same incident, they must be combined in one claim.

**§ 327.43 Insurance and other subrogated claims.**

(a) The claims of an insured (subrogor) and an insurer (subrogee) for damages arising out of the same incident constitute a single claim.

(b) An insured (subrogor) and an insurer (subrogee) may file a claim jointly or separately. If the insurer has fully reimbursed the insured, payment will only be made to the insurer. If separate claims are filed, the settlement will be made payable to each claimant to the extent of that claimant's undisputed interest. If joint claims are filed, the settlement will be sent to the insurer.

(c) Each claimant shall include with a claim, a written disclosure concerning insurance coverage including:

(1) The names and addresses of all insurers;

(2) The kind and amount of insurance;

(3) The policy number; and

(4) Whether a claim has been or will be presented to an insurer, and, if so, the amount of that claim; and whether the insurer has paid the claim in whole or in part, or has indicated payment will be made.

(d) Each subrogee shall substantiate an interest or right to file a claim by appropriate documentary evidence and shall support the claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subrogor does not constitute evidence of liability of the United States or conclusive evidence of the amount of damages. The Maritime Administration makes an independent determination on the issues of fact and law based upon the evidence of record.

**§ 327.44 Actions by claimant.**

(a) *Form of claim.* The claim should meet the requirements of § 327.44.

(b) *Presentation.* The claim must be presented in writing to the Office of Chief Counsel, Attn: Chief Counsel, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590–0001.

**§ 327.45 Contents of a claim.**

(a) A properly filed claim shall include the following, however, any of the following requirements may be waived by the Maritime Administration:

(1) Identification of the Maritime Administration as the agency whose act or omission gave rise to the claim;

(2) The full name and mailing address of the claimant. If this mailing address is not claimant's residence, the claimant shall also include residence address;

(3) The date, time, and place of the incident giving rise to the claim;

(4) The amount claimed, in a sum certain, supported by independent evidence of property damage or loss, personal injury, or death, as applicable together with supporting medical records and a HIPPA compliant medical waiver for each treating physician, hospital, or medical provider;

(5) A detailed description of the incident giving rise to the claim and the factual basis upon which it is claimed the United States is liable for the claim;

(6) A description of any property damage or loss, including the identity of the owner, if other than the claimant, as applicable;

(7) The nature and extent of the injury, as applicable;

(8) The full name, title, if any, and address of any witness to the incident and a brief statement of the witness' knowledge of the incident;

(9) A description of any insurance carried by the claimant or owner of the property and the status of any insurance claim arising from the incident; and

(10) An agreement by the claimant to accept the total amount claimed in full satisfaction and final settlement of the claim, lien, or subrogation claim on the claimed amount, or any assignment of the claim.

(b) A claimant or duly authorized agent or legal representative must sign in ink a claim and any amendment to that claim. The claim shall include a statement that the information provided is true and correct to the best of the claimant's knowledge, information, and belief. If the person's signature does not include the first name, middle initial, if any, and surname, that information must be included in the claim. A married woman must sign her claim in her given name, *e.g.,* ''Mary A. Doe,'' rather than ''Mrs. John Doe.''

**§ 327.46 Evidence supporting a claim.**

(a) The claimant should present any evidence in the claimant's possession that supports the claim. This evidence shall include, if available, statements of witnesses, accident or casualty reports, photographs and drawings.

(b) Notwithstanding anything in the regulations in this subpart, the claimant shall provide such additional documents and evidence as requested by the Maritime Administration with respect to the claim. Failure to respond to reasonable requests for additional information and documentation can result in a determination that a proper claim has not been submitted.

**§ 327.47 Proof of amount claimed for personal injury.**

The following evidence must be presented when appropriate in claims:

(a) Itemized medical, hospital, and burial bills.

(b) A written report by the attending physician including:

(1) The nature and extent of the injury and the treatment;

(2) The necessity and reasonableness of the various medical expenses incurred;

(3) Duration of time injuries prevented or limited employment;

(4) Past, present, and future limitations on employment;

(5) Duration and extent of pain and suffering and of any disability or physical disfigurement;

(6) A current prognosis;

(7) Any anticipated medical expenses;

(8) Any past medical history of the claimant relevant to the particular injury alleged; and

(9) At the request of the Maritime Administration, an examination by an independent medical facility or physician may be required to provide independent medical evidence against which to evaluate the written report of the claimant's physician. The Maritime Administration determines the need for this examination, makes mutually convenient arrangements for such an examination, and bears the costs thereof.

(c) All hospital records or other medical documents from either this injury or any relevant past injury.

(d) If the claimant is employed, a written statement by the claimant's employer certifying the claimant's:

(1) Age;

(2) Occupation;

(3) Hours of employment;

(4) Hourly rate of pay or weekly salary;

(5) Time lost from work as a result of the incident; and

(6) Claimant's actual period of employment, full-time or part-time, and any effect of the injury upon such employment to support claims for lost earnings.

(e) If the claimant is self-employed, written statements, or other evidence showing:

(1) The amount of earnings actually lost, and

(2) The Federal tax return, if filed, for the three previous years.

(f) If the claim arises out of injuries to a person providing services to the claimant, statement of the cost necessarily incurred to replace the services to which claimant is entitled under law.

**§ 327.48 Proof of amount claimed for loss of, or damage to, property.**

The following evidence should be presented when appropriate:

(a) For each particular lost item, evidence of its value such as a bill of sale and a written appraisal, or two written appraisals, from separate disinterested dealers or brokers, market quotations, commercial catalogs, or other evidence of the price at which like property can be obtained in the community. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any appraisal may be included as an element of damage if not deductible from any bill submitted to claimant.

(b) For each particular damaged item which can be economically repaired, evidence of cost of repairs such as a receipted bill and one estimate, or two estimates, from separate disinterested repairmen. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any estimate may be included as an element of damage if not deductible from any repair bill submitted to claimant.

(c) For any claim which may result in payment in excess of $20,000.00, a survey or appraisal shall be performed as soon as practicable after the damage accrues, and, unless waived in writing, shall be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it shall be treated as a lost item.

(e) If a claim includes loss of earnings or use during repairs to the damaged property, the following must also be furnished and supported by competent evidence:

(1) The date the property was damaged;

(2) The name and location of the repair facility;

(3) The beginning and ending dates of repairs and an explanation of any delay between the date of damage and the beginning date;

(4) A complete description of all repairs performed, segregating any work performed for the owner's account and not attributable to the incident involved, and the costs thereof;

(5) The date and place the property was returned to service after completion of repairs, and an explanation, if applicable, of any delay;

(6) Whether or not a substitute for the damaged property was available. If a substitute was used by the claimant during the time of repair, an explanation of the necessity of using the substitute, how it was used, and for how long, and the costs involved. Any costs incurred that would have been similarly incurred by the claimant in using the damaged property must be identified;

(7) Whether or not during the course of undergoing repairs the property would have been used, and an explanation submitted showing the identity of the person who offered that use, the terms of the offer, time of prospective service, and rate of compensation; and

(8) If at the time of damage the property was under charter or hire, or was otherwise employed, or would have been employed, the claimant shall submit a statement of operating expenses that were, or would have been, incurred. This statement shall include wages and all bonuses which would have been paid, the value of fuel and the value of consumable stores, separately stated, which would have been consumed, and all other costs of operation which would have been incurred including, but not limited to, license and parking fees, personnel expenses, harbor fees, wharfage, dockage, shedding, stevedoring, towage, pilotage, inspection, tolls, lockage, anchorage and moorage, grain elevation, storage, and customs fees.

(f) For each item which is lost, actual or constructive, proof of ownership.

**§ 327.49 Effect of other payments to claimant.**

The total amount to which the claimant may be entitled is normally computed as follows:

(a) The total amount of the loss, damage, or personal injury suffered for which the United States is liable, less any payment the claimant has received from the following sources:

(1) The military member or civilian employee who caused the incident;

(2) The military member's or civilian employee's insurer; and

(3) Any joint tort-feasor or insurer.

(b) No deduction is generally made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

**§ 327.50 Statute of limitations for other admiralty claims and claim requirements.**

A civil suit must be filed within the statute of limitations of the specific admiralty claim. The start date for such statute of limitations determinations shall be the Accrual Date.

**§ 327.51 Statute of limitations not tolled by administrative consideration of claims.**

The statute of limitations for filing a civil action under 46 U.S.C. 30101(b) is not tolled by the Maritime Administration's administrative consideration of a claim.

**§ 327.52 Notice of claim acceptance or denial.**

The Maritime Administration shall give prompt notice in writing of the acceptance or denial of each claim in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of denial, such notice shall contain a brief statement of the reason for such a denial.

By Order of the Maritime Administrator.

Dated: October 16, 2012.

**Christine S. Gurland,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2012–25786 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 660

**[Docket No. 100804324–1265–02]**

**RIN 0648–XC302**

## Magnuson-Stevens Act Provisions; Fisheries Off the West Coast States; Pacific Coast Groundfish Fishery; Pacific Whiting and Non-Whiting Allocations; Pacific Whiting Seasons

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

**ACTION:** Reapportionment of tribal whiting allocation.

**SUMMARY:** This document announces the reapportionment of 28,000 mt of Pacific whiting from the tribal allocation to the non-tribal commercial fishery allocations to ensure full utilization of the resource.

**DATES:** The reapportionment of whiting is effective from 1200 local time, October 4, 2012, until December 31, 2012, unless modified, superseded or rescinded. Comments will be accepted through November 14, 2012.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2012–0041 by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, enter NOAA–NMFS–2012–0041 in the search box. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.

• *Fax:* 206–526–6736, Attn: Kevin C. Duffy.

• *Email comments directly to NMFS, Northwest Region at: Whitingreapportionment@noaa.gov*

• *Mail:* William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, Attn: Kevin C. Duffy.

*Instructions:* All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (if submitting comments via the Federal Rulemaking portal, enter ''N/A'' in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Kevin C. Duffy (Northwest Region, NMFS), phone: 206–526–4743, fax: 206–526–6736 and email: *kevin.duffy@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Electronic Access

This document is accessible via the Internet at the Office of the Federal Register's Web site at *http://www.gpo.gov/fdsys/search/home.action.* Background information and documents are available at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/.*

## Background

This document announces the reapportionment of 28,000 mt of Pacific whiting from the tribal allocation to the non-tribal commercial sectors on October 4, 2012. This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. Regulations at 50 CFR 660.131(h) contain provisions that allow the Regional Administrator to make Pacific whiting tribal allocation specified at § 660.50 that will not be harvested by the tribal fisheries available for harvest to other sectors of the trawl fishery. For 2012 the Washington Coast treaty tribes were allocated 48,556 mt of Pacific whiting. The best available information through October 2, 2012 indicated that less than 1,000 mt of the tribal allocation had been harvested. Approximately 28,000 mt of the 2012 tribal allocation are projected to go unharvested. Therefore, to ensure full utilization of the resource, NMFS reapportioned 28,000 mt to the shorebased IFQ, catcher/processor and mothership sectors in proportion to each sector's original allocation on October 4, 2012. Reapportioning this amount is not expected to limit tribal harvest opportunities for the remainder of the year.

The revised Pacific whiting allocations for 2012 are: Tribal 20,556 mt, catcher/processor 55,584 mt; mothership 39,235 mt: and shorebased IFQ 68,662 mt. Emails sent directly to fishing businesses and postings on the Northwest Region's internet site were used to provide actual notice to the affected fishers.

## Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b)(B) because such notification would be impracticable and contrary to the public interest. As previously noted, actual notice of the reapportionment was provided to fishers. Prior notice and opportunity for public comment was impracticable because NMFS had insufficient time to provide prior notice and the opportunity for public comment between the time the information about the progress of the fishery needed to make this determination became available and the time at which fishery modifications had to be implemented in order to allow fishers access to the available fish during the remainder of the fishing season. Reapportioning as quickly as possible was necessary to allow fishers access to the available fish prior to the onset of weather conditions that would make fishing unsafe. For the same reasons, the AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3).

These actions are authorized by 50 CFR sections 660.55 (i), 660.60(d) and 660.131(h) and are exempt from review under Executive Order 12866.

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

Dated: October 25, 2012.

**James P. Burgess,**

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

[FR Doc. 2012–26675 Filed 10–29–12; 8:45 am]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**[Docket No. 111207737–2141–02]**

**RIN 0648–XC323**

# Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully use the 2012 Pacific cod total allowable catch (TAC) apportioned to vessels using pot gear in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 29, 2012, through 2400 hrs, A.l.t., December 31, 2012. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 13, 2012.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2012–0216, by any one of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0216 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on that line.

• *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

• *Fax:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907–586–7557.

• *Hand delivery to the Federal Building:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to

709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA under § 679.20(d)(1)(iii) on October 12, 2012 (77 FR 62464, October 15, 2012).

As of October 23, 2012, NMFS has determined that approximately 300 metric tons of Pacific cod remain in the directed fishing allowance of the Pacific cod TAC apportioned to vessels using pot gear in the Central Regulatory Area of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2012 TAC of Pacific cod apportioned to vessels using pot gear in the Central Regulatory Area of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA, effective 1200 hrs, A.l.t., October 29, 2012.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

## Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the directed Pacific cod fishery by vessels using pot gear in the Central Regulatory Area of the GOA. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 23, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow Pacific cod fishery by vessels using pot gear in the Central Regulatory Area of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until November 13, 2012.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: October 25, 2012.

**Lindsay Fullenkamp,**

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

[FR Doc. 2012–26688 Filed 10–29–12; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register

Vol. 77, No. 210

Tuesday, October 30, 2012

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2008–0615; Directorate Identifier 2007–NM–352–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** We are revising an earlier proposed airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. That NPRM proposed to require repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary. That NPRM was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. This action revises that NPRM by proposing to require repetitive operational tests and corrective actions if necessary. We are proposing this supplemental NPRM to detect and correct loss of the engine fuel suction feed capability of the fuel system, which, in the event of total loss of the fuel boost pumps, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane. Since these actions impose an additional burden over that proposed in the previous NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

**DATES:** We must receive comments on this supplemental NPRM by December 14, 2012.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, 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, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@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–2008–0615; Directorate Identifier 2007–NM–352–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

### Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to all The Boeing Company Model 757 airplanes. That NPRM published in the **Federal Register** on June 6, 2008 (73 FR 32256). That NPRM proposed to require repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary, according to a method approved the FAA.

### Actions Since Previous NPRM (73 FR 32256, June 6, 2008) Was Issued

Since we issued the previous NPRM (73 FR 32256, June 6, 2008), we have received comments from operators indicating a high level of difficulty performing the actions in the previous NPRM during maintenance operations. The new service information referenced in this supplemental NPRM addresses these issues.

### Relevant Service Information

We reviewed Boeing Alert Service Bulletin 757–28A0131, dated May 4, 2012. This service information describes procedures for repetitive operational tests of the engine fuel suction feed of the fuel system, and corrective actions if necessary. The corrective actions include isolating the cause of any leakage and repairing the leak.

### Comments

We gave the public the opportunity to comment on the previous NPRM (73 FR 32256, June 6, 2008). The following presents the comments received on the previous NPRM and the FAA's response to each comment.

**Request To Withdraw the Previous NPRM (73 FR 32256, June 6, 2008)**

American Airlines (AAL) asked that we withdraw the previous NPRM (73 FR 32256, June 6, 2008). AAL recommended that a detailed review of the applicable system safety assessment (SSA) and failure mode and effects analysis (FMEA) be done for the fuel system on Model 757 airplanes. AAL stated that the fuel system, while similar in some design aspects to the fuel system on Model 737–400 airplanes on which the unsafe condition occurred, is sufficiently different that the probability of a similar failure is within the acceptable level of safety required for certification. AAL noted that there is a significant difference in the SSA and FMEA; specifically, all the wing fuel pump relays of the Model 757 airplane are powered by one leg of the three phase 115 volt alternating current (VAC) power provided to the respective pump, while the fuel cross-feel valve is powered by the battery direct current (DC) bus. AAL added that the wing fuel pump relays and fuel cross-feed valve are both supplied by DC bus power on Model 737 airplanes. Northwest Airlines (NWA) stated that we should explain what caused the failures that resulted in the previous NPRM, and noted that failure analysis could dictate a different action.

We do not agree with the request to withdraw the previous NPRM (73 FR 32256, June 6, 2008), because, together with the manufacturer, we have evaluated this issue and determined it to be an important safety concern. Although the fuel system on Model 757 airplanes differs with respect to the engine fuel feed system design, service data of transport category airplanes indicates that multi-engine flameouts have generally resulted from a common cause, such as fuel mismanagement, crew action that inadvertently shut off the fuel supply to the engines, exposure to common environmental conditions, or engine deterioration on all engines of the same type. Successful in-flight restart of the engines is dependent on adequate fuel being supplied to the engines, solely through engine suction fuel feed. Deterioration of the fuel plumbing system can lead to line (vacuum) losses, reducing the engine fuel suction feed capability; therefore, directed maintenance is necessary to ensure this system is functioning correctly in order to maintain continued safe flight of the airplane. We have not changed the supplemental NPRM in this regard.

**Request To Incorporate Certification Maintenance Requirement (CMR) Task Into the Maintenance Program Instead of Issuing an NPRM (73 FR 32256, June 6, 2008)**

AAL asked that instead of issuing an NPRM, a new or revised CMR task be issued for incorporation into the maintenance program. AAL stated that, since there is no modification or terminating action for the previous NPRM (73 FR 32256, June 6, 2008), the test should not be mandated. AAL also stated that the requirements in the previous NPRM should not be addressed as an AD. AAL added that the CMR would demonstrate proof of analysis, and provide a best-fit solution for that analysis; i.e., an effective and feasible safety task, and the correct interval to match the effectivity of the task.

We do not agree with the request to issue a new or revised CMR task. CMRs are developed by the Certification Maintenance Coordination Committee (CMCC) during the type certification process. The CMCC is made up of manufacturer representatives (typically maintenance, design, and safety engineering personnel), operator representatives designated by the Industry Steering Committee chairperson, FAA Aircraft Certification Office specialists, and the Maintenance Review Board (MRB) chairperson. CMRs developed during this process become a part of the certification basis of the airplane upon issuance of the type certificate. We do not have a process for convening the CMCC outside of the type certification process; based on this, the CMR is not an option for replacing this AD. Therefore, if the airworthiness limitation items (ALIs) were not in the maintenance program at the time of initial certification, an AD is required to make the ALI task a required action. We have not changed the supplemental NPRM in this regard.

**Request To Include Corrective Action**

Continental Airlines (CAL) asked that the related testing language specified in paragraph (f) of the previous NPRM (73 FR 32256, June 6, 2008) be changed. CAL stated that it should specify correcting discrepancies before further flight if the engine fails the operational test. CAL added that the corrective actions should be done in accordance with the procedures in the ''Right (Left) Engine Fails the Suction Feed Test'' procedure in the Boeing 757 Fault Isolation Manual (FIM) 28–22–00/101.

We agree with the request to include corrective actions in paragraph (g) of this supplemental NPRM (paragraph (f) of the previous NPRM (73 FR 32256, June 6, 2008)). Since the previous NPRM does not include corrective actions, we have changed paragraph (g) of this supplemental NPRM to specify doing all applicable corrective actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–28A0131, dated May 4, 2012.

**Requests To Revise Compliance Time**

CAL and NWA asked that we extend the repetitive operational test interval required by paragraph (f) of the previous NPRM (73 FR 32256, June 6, 2008). CAL stated that a re-evaluation of the proposed repetitive interval limit after doing the initial inspection should be done, since its service history has revealed no reported engine flameout events or related operational discrepancies. CAL asked that the repetitive interval be extended to repeating the inspection during a normal maintenance 2C-check or within 8,000 flight cycles, whichever occurs first. NWA stated that the previous NPRM does not indicate how the initial and repetitive intervals were determined. NWA asked that the repetitive interval be changed to up to 10,000 flight hours to fit the mandated tests into its maintenance program C-check.

We do not agree with the requests that the compliance time be extended. In developing an appropriate compliance time for the actions specified in paragraph (g) of this supplemental NPRM (paragraph (f) of the previous NPRM (73 FR 32256, June 6, 2008)), we considered the safety implications and normal maintenance schedules for the timely accomplishment of the specified actions. We have determined that the proposed compliance time will ensure an acceptable level of safety and allow the actions to be done during scheduled maintenance intervals for most affected operators. However, affected operators may request an alternative method of compliance (AMOC) to request an extension of the repetitive operational test interval under the provisions of paragraph (h) of this supplemental NPRM by submitting data substantiating that the change would provide an acceptable level of safety. We have not changed the supplemental NPRM in this regard.

**Requests To Allow the Use of Later Revisions of the Maintenance Documents**

British Airways (BA), CAL, and United Airlines (UAL) asked that we allow using later revisions of the maintenance documents, because they

could be revised over time and would require frequent requests for AMOCs.

We do not agree with the request. Allowing later revisions of service documents in an AD is not allowed by the Office of the Federal Register regulations for approving materials incorporated by reference. Affected operators may, however, request approval to use a later revision of referenced service information as an AMOC in accordance with the procedures specified in paragraph (h) of this supplemental NPRM. We have not changed the supplemental NPRM in this regard.

**Request To Clarify if Engine Fuel Suction Feed Test Is Allowed in Lieu of the Operational Test**

BA asked that we clarify that the engine fuel suction feed test procedure in the Boeing 757 Maintenance Planning Data (MPD) document is an option for performing the operational test in the previous NPRM (73 FR 32256, June 6, 2008). BA asked that we consider adding the engine fuel suction feed manifold leak-test procedure as an alternative procedure to performing the operational test specified in Section 28–22–00 of the Boeing 757 Aircraft Maintenance Manual (AMM).

We agree to provide clarification. The manifold test (Task 28–22–00–710–801) is not equivalent to the operational test (Task 28–22–00–710–802) for the purposes of this proposed action. The positive internal fuel line pressure applied during the manifold test does not simulate the same conditions encountered during fuel suction feed (i.e., vacuum), and may mask a failure. Therefore, we have not changed the supplemental NPRM in this regard.

**Request To Include Warning Information**

CAL suggested that the Boeing service manuals include a critical design configuration control limitation (CDCCL) warning identification statement to alert maintenance personnel of the importance of regulatory compliance, as well as the configuration control requirement. CAL did not include any justification for this request.

We agree that a CDCCL warning statement would serve as direct communication to maintenance personnel that there is an AD associated with certain maintenance actions, but do not find this additional measure necessary to adequately address the unsafe condition. We have made no change to the supplemental NPRM in this regard.

**Request To Revise Costs of Compliance Section**

NWA stated that the cost estimate specified in the previous NPRM (73 FR 32256, June 6, 2008) is too low, and asked that it be changed. NWA stated that the cost of fuel is not included in the cost estimate and should be included due to the high cost of fuel.

We acknowledge the commenter's request. Although fuel is used during the operational test, we have not received data on the amount of fuel used during the test. In addition, fuel costs vary among operators. Therefore, we do not have definitive data that would enable us to provide a cost estimate for the fuel costs. In any case, we have determined that direct and incidental costs are still outweighed by the safety benefits of the proposed AD. We have made no change to the supplemental NPRM in this regard.

**Request To Refer to Boeing 757 MPD, Section 6, Task 28–22–00–5D**

BA asked that the previous NPRM (73 FR 32256, June 6, 2008) refer to the Boeing 757 MPD, which contains the repetitive test interval of 1C-check in the MPD task (6,000 flight hours/3,000 flight cycles/18 months). BA added that it currently performs the test at 24-month C-check intervals, and has conducted the test on 71 airplanes since May 2006, with no failures identified.

We do not agree to refer to the Boeing 757 MPD in this supplemental NPRM. As stated previously, Boeing has issued Alert Service Bulletin 757–28A0131, dated May 4, 2012, referred to as the appropriate source of service information for doing the actions proposed in this supplemental NPRM. We have made no change to the supplemental NPRM in this regard.

**Request To Remove or Clarify Certain Language in Paragraph (f) of the Previous NPRM (73 FR 32256, June 6, 2008)**

NWA asked that the last sentence in paragraph (f) of the previous NPRM (73 FR 32256, June 6, 2008) be removed or clarified. NWA stated that the intent of that sentence is unclear, and is reiterated as follows: ''Thereafter, except as provided in paragraph (h) of this AD, no alternative procedure or repeat test intervals will be allowed.'' NWA added that it is standard practice that once an AD is issued, deviation procedures and intervals are not allowed unless approved by requesting an AMOC.

We agree with the commenter that including the subject sentence is redundant; however, that sentence is included in paragraph (g) of this supplemental NPRM (paragraph (f) of the previous NPRM (73 FR 32256, June 6, 2008)) merely as a reminder for operators of standard practices. We have made no change to the supplemental NPRM in this regard.

**FAA's Determination**

We are proposing this supplemental NPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the previous NPRM (73 FR 32256, June 6, 2008). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

**Proposed Requirements of the Supplemental NPRM**

This supplemental NPRM revises the previous NPRM (73 FR 32256, June 6, 2008) by proposing repetitive operational tests of the engine fuel suction feed of the fuel system, and corrective actions if necessary.

**Costs of Compliance**

We estimate that this proposed AD would affect 673 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

| Action | Labor cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| Operational Test ..... | Up to 6 work hours × $85 per hour = $510 per engine, per test. | Up to $2,040, per test ..... | Up to $343,230, per test. |

We have received no definitive data that would enable us to provide a cost estimate 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 determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**The Boeing Company:** Docket No. FAA–2008–0615; Directorate Identifier 2007–NM–352–AD.

**(a) Comments Due Date**

We must receive comments by December 14, 2012.

**(b) Affected ADs**

None.

**(c) Applicability**

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

**(d) Subject**

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2800, Aircraft Fuel System.

**(e) Unsafe Condition**

This AD was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. We are issuing this AD to detect and correct loss of the engine fuel suction feed capability of the fuel system, which in the event of total loss of the fuel boost pumps could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

**(f) Compliance**

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

**(g) Operational Test and Corrective Actions**

Within 7,500 flight hours or 36 months after the effective date of this AD, whichever occurs first: Perform an operational test of the engine fuel suction feed of the fuel system, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–28A0131, dated May 4, 2012. Do all applicable corrective actions before further flight. Repeat the operational test thereafter at intervals not to exceed 7,500 flight hours or 36 months, whichever occurs first. Thereafter, except as provided in paragraph (h) of this AD, no alternative procedures or repeat test intervals will be allowed.

**(h) Alternative Methods of Compliance (AMOCs)**

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

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

**(i) Related Information**

(1) For more information about this AD, contact Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@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, Washington. 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. 2012–26670 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Chapter I

**[Docket No. AD12–6–000]**

## Retrospective Analysis of Existing Rules: Notice of Staff Memorandum

**SUMMARY:** Take notice that the Commission staff is issuing a memorandum setting forth certain minor revisions to the Commission's Natural Gas Pipeline regulations that may be appropriate to remove reporting requirements that may no longer serve their intended purpose. The memorandum was issued pursuant to the Nov. 8, 2011 *Plan for Retrospective Analysis of Existing Rules* prepared in response to Executive Order 13579, which requested independent regulatory agencies issue plans for periodic retrospective analysis of their existing regulations.

The Staff Memorandum is being placed in the record in the above-referenced administrative docket. The Staff Memorandum will also be available on the Commission's Web site at *http://www.ferc.gov.*

**DATES:** Comments on the Staff Memorandum should be filed by November 29, 2012.

**ADDRESSES:** The Commission encourages electronic submission of comments in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original of the comment to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

All filings in this docket are accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link. 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. 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.

**FOR FURTHER INFORMATION CONTACT:** Christy Walsh, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, 202–502–6523, *Christy.Walsh@ferc.gov.*

Dated: October 18, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–26439 Filed 10–29–12; 8:45 am]

**BILLING CODE 6717–01–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2012–0781; FRL–9746–7]**

## Determination of Attainment for the Yuba City-Marysville 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 Yuba City-Marysville 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 29, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2012–0781 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?

EPA is proposing to determine that the Yuba City-Marysville 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 the Yuba City-Marysville

nonattainment 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 secondary [1] 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 Yuba City-Marysville [2] area 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 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 determinations that the Yuba City-Marysville [4] nonattainment area has attained the 2006 $PM_{2.5}$ NAAQS and 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 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*

The California Air Resources Board (CARB) and local Air Pollution Control Districts and Air Quality Management Districts (''Districts'') operate ambient monitoring stations throughout the State. CARB is the lead monitoring agency in the Primary Quality Assurance Organization [6] (PQAO) that includes all the monitoring agencies in the State with a few exceptions.[7] CARB is responsible for monitoring ambient air quality within the Yuba City-Marysville nonattainment area. In addition, CARB oversees the quality assurance of all data collected within the CARB PQAO. CARB submits annual monitoring network plans to EPA that describe the monitoring sites CARB operates. These plans discuss the status of the air monitoring network, as required under 40 CFR part 58.10.

Since 2007, EPA has regularly reviewed 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 CARB's network plans meet the applicable requirements under 40 CFR part 58. See EPA letters to CARB approving its annual network plans for years 2009, 2010, and 2011.[8] EPA also

[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 Yuba City-Marysville $PM_{2.5}$ nonattainment area includes Sutter County and the southwestern two-thirds of Yuba County. This nonattainment area lies within the Sacramento Valley Air Basin and lies between the Chico $PM_{2.5}$ nonattainment area to the north and the Sacramento $PM_{2.5}$ nonattainment area to the south.

[3] With respect to the annual $PM_{2.5}$ NAAQS, this area is designated as ''unclassifiable/attainment.''

[4] On June 8, 2010, 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 Yuba City-Marysville $PM_{2.5}$ 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.

[6] Primary quality assurance organization means a monitoring organization or other organization that is responsible for a set of stations that monitor the same pollutant and for which data quality assessments can be pooled (40 CFR 58.1).

[7] The Bay Area Air Quality Management District, the South Coast Air Quality Management District, and the San Diego Air Pollution Control District are each designated as the PQAO for their respective ambient air monitoring programs.

[8] Letter from Joe Lapka, Acting Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (November 24, 2009) (approving CARB's ''2009 Annual Monitoring Network Report for Small Districts in California''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA

Continued

concluded [9] from its Technical System Audit of the CARB PQAO (conducted during the summer of 2007) that the ambient air monitoring network operated by CARB currently meets or exceeds the requirements for the minimum number of SLAMS for $PM_{2.5}$ in the Yuba City-Marysville nonattainment area. Also, CARB annually certifies that the data it submits to AQS are complete and quality-assured.[10]

There was one $PM_{2.5}$ SLAMS operating during the 2009–2011 period in the Yuba City-Marysville $PM_{2.5}$ nonattainment area. The site is operated by CARB and has been monitoring $PM_{2.5}$ concentrations since 1999. EPA defines specific monitoring site types and spatial scales of representativeness to characterize the nature and location of required monitors. With respect to the Yuba City-Marysville site, the spatial scale is neighborhood scale,[11] and the monitoring objective (site type) 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 site in the Yuba City-Marysville nonattainment area and have found the data to be complete.

*B. Evaluation of Current Attainment*

EPA's evaluation of whether the Yuba City-Marysville $PM_{2.5}$ 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 adequacy [13] 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 value for the Yuba City-Marysville nonattainment area monitor 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 monitor. Therefore, we are proposing to determine, based on the complete, quality-assured data for 2009–2011, that the Yuba City-Marysville 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 SITE AND DESIGN VALUE FOR THE YUBA CITY-MARYSVILLE NONATTAINMENT AREA

| Monitoring site | AQS site identification No. | 98th Percentile (μg/m³) | | | 2009–2011 design value (μg/m³) |
|---|---|---|---|---|---|
| | | 2009 | 2010 | 2011 | |
| Yuba City-Marysville | 06–101–0003 | 27.5 | 17.1 | 37.1 | 27 |

Source: Design Value Report, August 31, 2012 (in the docket to this proposed action).

## 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).[14] 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

Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (October 29, 2010) (approving CARB's ''2010 Annual Monitoring Network Plan for the Small Districts in California''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (November 1, 2011) (approving CARB's ''2011 Annual Monitoring Network Plan for the Small Districts in California'').

[9] See letter from Deborah Jordan, Director, Air Division, U.S. EPA Region IX, to James Goldstene, Executive Officer, CARB, transmitting ''Technical System Audit of the California Environmental Protection Agency Air Resources Board: 2007,'' with enclosure, August 18, 2008.

[10] See, e.g., letter from Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying calendar year 2011 ambient air quality data and quality assurance data, May 1, 2012.

[11] In 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.

[12] See CARB's *2011 Annual Network Plan Report* (June, 2011); U.S. EPA Air Quality System, Monitor Description Report, September 14, 2012.

[13] Meets the requirements of 40 CFR part 58.

[14] 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.

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, $PM_{10}$).

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-Worchester, 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 the Act are by their terms not applicable to areas that are currently attaining the NAAQS.[15] 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.[16] 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,

[15] This discussion refers to subpart 1 because subpart 1 contains the requirements relating to attainment of the 2006 $PM_{2.5}$ NAAQS.

[16] 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).

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 Yuba City-Marysville 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 the area continues to attain the standard.

EPA further proposes that, if its proposed determination of attainment is made final, the requirements for the Yuba City-Marysville 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 Yuba City-Marysville 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 the area until such time as EPA determines that California has met the CAA requirements for redesignating the Yuba City-Marysville nonattainment area to attainment.

If the Yuba City-Marysville nonattainment area continues to monitor attainment of the 2006 $PM_{2.5}$ NAAQS, EPA proposes that the requirements for the area to submit an 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 these attainment planning requirements for the Yuba City-Marysville nonattainment 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. 2012–26681 Filed 10–29–12; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2012–0800; FRL–9746–9]**

## Determination of Attainment for the Chico 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 Chico 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 29, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2012–0800 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?

EPA is proposing to determine that the Chico 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 p.m.$_{2.5}$ 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 p.m.$_{2.5}$ 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 the Chico nonattainment 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 secondary [1] 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 Chico [2] area 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 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 determinations that the Chico [4] nonattainment area has attained the 2006 $PM_{2.5}$ NAAQS and 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 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*

The California Air Resources Board (CARB) and local Air Pollution Control Districts and Air Quality Management Districts (''Districts'') operate ambient monitoring stations throughout the State. CARB is the lead monitoring agency in the Primary Quality Assurance Organization [6] (PQAO) that includes all the monitoring agencies in the State with a few exceptions.[7] CARB is responsible for monitoring ambient air quality within the Chico nonattainment area. In addition, CARB oversees the quality assurance of all data collected within the CARB PQAO. CARB submits annual monitoring network plans to EPA that describe the monitoring sites CARB operates. These plans discuss the status of the air monitoring network, as required under 40 CFR part 58.10.

Since 2007, EPA has regularly reviewed 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 CARB's network plans meet the applicable requirements under 40 CFR part 58. See EPA letters to CARB approving its annual network plans for years 2009, 2010, and 2011.[8] EPA also concluded [9] from its Technical System Audit of the CARB PQAO (conducted during the summer of 2007) that the

[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 Chico $PM_{2.5}$ nonattainment area includes the southwestern two-thirds of Butte County, California. Butte County lies in the central portion of northern California's Sacramento Valley Air Basin, which stretches from Sacramento County in the south to Shasta County in the north.

[3] With respect to the annual $PM_{2.5}$ NAAQS, this area is designated as ''unclassifiable/attainment.''

[4] On June 2, 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 Chico $PM_{2.5}$ 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.

[6] Primary quality assurance organization means a monitoring organization or other organization that is responsible for a set of stations that monitor the same pollutant and for which data quality assessments can be pooled (40 CFR 58.1).

[7] The Bay Area Air Quality Management District, the South Coast Air Quality Management District, and the San Diego Air Pollution Control District are each designated as the PQAO for their respective ambient air monitoring programs.

[8] Letter from Joe Lapka, Acting Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (November 24, 2009) (approving CARB's ''2009 Annual Monitoring Network Report for Small Districts in California''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (October 29, 2010) (approving CARB's ''2010 Annual Monitoring Network Plan for the Small Districts in California''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB (November 1, 2011) (approving CARB's ''2011 Annual Monitoring Network Plan for the Small Districts in California'').

[9] See letter from Deborah Jordan, Director, Air Division, U.S. EPA Region IX, to James Goldstene, Executive Officer, CARB, transmitting ''Technical System Audit of the California Environmental Protection Agency Air Resources Board: 2007,'' with enclosure, August 18, 2008.

ambient air monitoring network operated by CARB currently meets or exceeds the requirements for the minimum number of SLAMS for $PM_{2.5}$ in the Chico nonattainment area. Also, CARB annually certifies that the data it submits to AQS are complete and quality-assured.[10]

There was one $PM_{2.5}$ SLAMS operating during the 2009–2011 period in the Chico $PM_{2.5}$ nonattainment area. The site is operated by CARB and has been monitoring $PM_{2.5}$ concentrations since 1999. EPA defines specific monitoring site types and spatial scales of representativeness to characterize the nature and location of required monitors. With respect to the Chico site, the spatial scale is neighborhood scale,[11] and the monitoring objectives (site types) are population exposure and highest concentration.[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 site in the Chico nonattainment area and have found the data to be complete. However, under our monitoring regulations in 40 CFR 58.12(d)(1), at the Chico monitor, CARB should be monitoring on a one-in-three day schedule rather than on a one-in-six day schedule. In addition, the 2009–2011 design value (35 μg/m³) is within 5 percent of the 24-hour $PM_{2.5}$ NAAQS, triggering a daily sampling frequency required starting January 2013. See 40 CFR 58.12(d)(1)(iii). In response, CARB has agreed to increase the sampling frequency.[13] The increased number of samples would provide sufficient information to evaluate the area's continued attainment of the 2006 p.m.$_{2.5}$ NAAQS if we finalize this proposed determination of attainment for the Chico nonattainment area.

*B. Evaluation of Current Attainment*

EPA's evaluation of whether the Chico $PM_{2.5}$ 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 adequacy[14] of both 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 value for the Chico nonattainment area monitor 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 monitor. Therefore, we are proposing to determine, based on the complete, quality-assured data for 2009–2011, that the Chico 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.[15]

TABLE 1—2009–2011 24-HOUR $PM_{2.5}$ MONITORING SITE AND DESIGN VALUE FOR THE CHICO NONATTAINMENT AREA

| Monitoring site | AQS site identification No. | 98th Percentile(μg/m³) | | | 2009–2011 design value (μg/m³) |
|---|---|---|---|---|---|
| | | 2009 | 2010 | 2011 | |
| Chico | 06–007–0002 | 30.0 | 29.0 | 46.2 | [a] 35 |

[a] The average of the 98th percentile values for 2009–2011 equals 35.1, but consistent with applicable rounding conventions in 40 CFR part 50, appendix N, section 4.3, 24-hour standard design values are rounded to the nearest 1 μg/m³ (decimals 0.5 and greater are rounded up to the nearest whole number, and any decimal lower than 0.5 is rounded down to the nearest whole number).

Source: Design Value Report, August 31, 2012 (in the docket to this proposed action).

## 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

[10] See, e.g., letter from Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying calendar year 2011 ambient air quality data and quality assurance data, May 1, 2012.

[11] In 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.

[12] See CARB's *2011 Annual Network Plan Report* (June, 2011); U.S. EPA Air Quality System, Monitor Description Report, September 14, 2012.

[13] In CARB's August 15, 2012 letter to Matthew Lakin, Manager, Air Quality Analysis Office, EPA Region IX, Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division agreed to increase the monitoring frequency to one-in-three day beginning on October 1, 2012 and to daily sampling beginning January 1, 2013 at the Chico monitoring site to ensure that the Chico area continues to meet the requirements of 40 CFR 58.12(d)(1) for monitoring frequency.

[14] Meets the requirements of 40 CFR part 58.

[15] The Butte County Air Quality Management District and Butte County Department of Public Health issued Joint Air Quality Advisories on August 2, 6, 10, and 14, 2012 because of high $PM_{2.5}$ levels in the Butte County foothills region apparently caused by smoke from a wildfire (i.e., Chips Fire). EPA's proposed determination is based on 2009–2011 data from the Federal Reference Method (FRM) monitor at the Chico site. There is a non-Federal Equivalent Method (FEM) monitor located in Paradise. Because the non-FEM monitor in Paradise does not meet federal requirements in 40 CFR part 50, Appendix L or 40 CFR part 58, the data from the Paradise monitor is not appropriate for use in determining if the Chico nonattainment area attained the 2006 24-hour $PM_{2.5}$ NAAQS standard. See 40 CFR part 50, Appendix N, section 3.0(a).

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, $PM_{10}$).

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-Worchester, 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 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

[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.

[17] This discussion refers to subpart 1 because subpart 1 contains the requirements relating to attainment of the 2006 $PM_{2.5}$ NAAQS.

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 Chico 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 the area continues to attain the standard.

EPA further proposes that, if its proposed determination of attainment is made final, the requirements for the Chico 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 Chico 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 the area until such time as EPA determines that California has met the CAA requirements for redesignating the Chico nonattainment area to attainment.

If the Chico nonattainment area continues to monitor attainment of the 2006 $PM_{2.5}$ NAAQS, EPA proposes that the requirements for the area to submit an 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 these attainment planning requirements for the Chico nonattainment 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

[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).

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. 2012–26629 Filed 10–29–12; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2012–0752; FRL–9746–8]**

## Determination of Attainment for the Nogales Nonattainment Area for the 2006 Fine Particle Standard; Arizona; Determination Regarding Applicability of Clean Air Act Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine that the Nogales nonattainment area in Arizona 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 the 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 the 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 29, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2012–0752 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?

EPA is proposing to determine that the Nogales 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 Arizona to submit certain state implementation plan (SIP) revisions related to attainment of this standard for the 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 secondary[1] 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 Nogales[2] area in Arizona as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS.[3] The boundaries for the nonattainment area are described in 40 CFR 81.303.

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 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 Arizona requested that EPA make a determination that the Nogales[4] nonattainment area has attained the 2006 $PM_{2.5}$ NAAQS. 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 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*

The Arizona Department of Environmental Quality (ADEQ) is the governmental agency with the authority and responsibility under state law for collecting ambient air quality data within the Nogales nonattainment area. Annually, ADEQ submits monitoring network plans to EPA. These plans discuss the status of the air monitoring network, as required under 40 CFR part 58. EPA reviews these annual network plans for compliance with the applicable reporting requirements in 40 CFR 58.10. With respect to $PM_{2.5}$, we have found that ADEQ's annual network plans meet the applicable requirements under 40 CFR part 58.[6] Furthermore, we concluded in our *Technical System Audit Report* concerning ADEQ's ambient air quality monitoring program that ADEQ's ambient air monitoring network currently meets or exceeds the requirements for the minimum number of monitoring sites designated as SLAMS for $PM_{2.5}$ in the Nogales nonattainment area.[7] Also, ADEQ annually certifies that the data it submits to AQS are quality-assured.[8]

[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] Covering 76.1 square miles, the Nogales $PM_{2.5}$ nonattainment area is located within Santa Cruz County, Arizona, with the southernmost boundary of the nonattainment area and Santa Cruz County being the U.S./Mexico border.

[3] With respect to the annual $PM_{2.5}$ NAAQS, this area is designated as ''unclassifiable/attainment.''

[4] On July 6, 2012, in an email to Lisa Hanf, Manager, Planning Office, Air Division, U.S. EPA Region IX, Diane Arnst, Planning Section Manager, Air Quality Division, Arizona Department of Environmental Quality, requested that EPA determine whether the Nogales $PM_{2.5}$ nonattainment area qualified for a determination of attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.

[5] The 24-hour $PM_{2.5}$ 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.

[6] Letter from Joe Lapka, Acting Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Nancy Wrona, Director, Air Quality Division, ADEQ (November 12, 2009) (approving ADEQ's ''Final Report of the State of Arizona Air Monitoring Network Plan for the Year 2009''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Eric Massey, Director, Air Quality Division, ADEQ (December 10, 2010) (approving ADEQ's ''Final Report of the State of Arizona Air Monitoring Network Plan for the Year 2010''); Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Eric Massey, Director, Air Quality Division, ADEQ (December 1, 2011) (approving ADEQ's ''State of Arizona Air Monitoring Network Plan: For the Year 2011'').

[7] Technical System Audit Report transmitted via correspondence dated September 23, 2010, from Deborah Jordan, Director, Air Division, EPA Region IX, to Eric Massey, Air Division, ADEQ.

[8] See, e.g., the letter from Eric C. Massey, Director, Air Quality Division, ADEQ to Deborah Jordan,

Continued

There was one $PM_{2.5}$ SLAMS operating during the 2009–2011 period in the Nogales $PM_{2.5}$ nonattainment area. This site has been monitoring $PM_{2.5}$ concentrations since 1999 with a one-in-six-day sampling frequency. EPA defines specific monitoring site types and spatial scales of representativeness to characterize the nature and location of required monitors. The monitor's spatial scale is neighborhood scale,[9] and its monitoring objective (site type) is population exposure.[10]

For the purposes of this proposed action, we have reviewed the data for the most recent three-year period (2009–2011) for completeness, and we determined that the data collected by ADEQ meets the completeness criterion for all 12 quarters at the Nogales $PM_{2.5}$ monitor. While we consider the $PM_{2.5}$ data set for 2009–2011 to be complete for the purposes of determining whether the area has attained the standard, we have also determined that, under our monitoring regulations, ADEQ should be sampling $PM_{2.5}$ on a one-in-three day schedule rather than at the current one-in-six day schedule because the co-located $PM_{2.5}$ monitor at the Nogales site is not a continuously operating monitor, and under those circumstances, a sampling frequency of at least one day in every three is required under 40 CFR 58.12(d)(1). ADEQ has agreed to increase the monitoring frequency at the Nogales monitoring site to meet the requirements of 40 CFR 58.12(d)(1), beginning January 2013.[11] The increased number of samples would provide sufficient information to evaluate the area's continued attainment of the 2006 $PM_{2.5}$ NAAQS if we finalize this proposed determination of attainment for the Nogales nonattainment area.

*B. Evaluation of Current Attainment*

EPA's evaluation of whether the Nogales $PM_{2.5}$ 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 adequacy 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 Nogales nonattainment area monitor 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 monitor. Therefore, we are proposing to determine, based on the complete, quality-assured data for 2009–2011, that the Nogales 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 SITE AND DESIGN VALUE FOR THE NOGALES NONATTAINMENT AREA

| Monitoring site | AQS site identification No. | 98th Percentile (μg/m³) | | | 2009–2011 design values (μg/m³) |
|---|---|---|---|---|---|
| | | 2009 | 2010 | 2011 | |
| Nogales Post Office | 04–023–0004 | 29.7 | 31.6 | 27.2 | 30 |

Source: Design Value Report, August 14, 2012 (in the docket to this proposed action).

## 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).[12] 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

Director, Air Division, EPA Region IX, dated September 21, 2012 certifying the ambient air quality data collected for year 2011.

[9] In 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.

[10] State of Arizona Air Monitoring Network Plan for the Year 2012, Final Report, August 1, 2012. ADEQ also operates a co-located $PM_{2.5}$ monitor at the Nogales monitoring site. The co-located monitor also collects samples on a one-day-in-six schedule.

[11] See ADEQ's September 11, 2012 letter to Matthew Lakin, Manager, Air Quality Analysis Office, EPA Region IX, from Eric Massey, Director, Air Quality Division, ADEQ.

[12] 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.

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, $PM_{10}$).

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 (DC Circuit) upheld EPA's rule embodying the Clean Data Policy for the 1997 8-hour ozone standard. *NRDC* v. *EPA,* 571 F.3d 1245 (DC 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-Worchester, 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 the Act are by their terms not applicable to areas that are currently attaining the NAAQS.[13] 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.[14] 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

[13] This discussion refers to subpart 1 because subpart 1 contains the requirements relating to attainment of the 2006 $PM_{2.5}$ NAAQS.

[14] 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).

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 Nogales nonattainment area in Arizona 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 the area continues to attain the standard.

EPA further proposes that, if its proposed determination of attainment is made final, the requirements for the Nogales 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 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 the area until such time as EPA determines that Arizona has met the CAA requirements for redesignating the Nogales $PM_{2.5}$ nonattainment area to attainment.

If the Nogales nonattainment area continues to monitor attainment of the 2006 $PM_{2.5}$ NAAQS, EPA proposes that the requirements for the area to submit an 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 these 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. 2012–26651 Filed 10–29–12; 8:45 am]

BILLING CODE 6560–50–P

# Notices

Federal Register

Vol. 77, No. 210

Tuesday, October 30, 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

### Agricultural Research Service

### Notice of Intent To Seek Reinstatement of an Information Collection

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3) and the Office of Management and Budget (OMB) regulations at 5 CFR part 1320, this notice announces the Agricultural Research Service's (ARS) intent to seek reinstatement of the ARS Animal Health National Program Assessment Survey, which seeks input on the impact of the Animal Health National Research Program through the completion of an electronic evaluation form. This voluntary information collection will give the beneficiaries of ARS research the opportunity to provide input on the impact of the research conducted by ARS in the last national program cycle. This input will be used for planning the research agenda for the next 5-year program cycle.

**DATES:** Comments on this notice must be received by December 31, 2012 to be assured of consideration.

**ADDRESSES:** Address all comments concerning this notice to Dr. Cyril G. Gay, National Program Leader, Agricultural Research Service, National Program Staff, Animal Production and Protection, 5601 Sunnyside Avenue, GWCC, Building 4, Beltsville, Maryland 20705–5148. Comments may be sent by phone to (301) 504–4786 or fax to (301) 504–4873. Submit electronic comments to *Cyril.Gay@ars.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Cyril G. Gay at (301) 504–4786.

**SUPPLEMENTARY INFORMATION:**

*Title:* ARS Animal Health National Program Assessment Evaluation Form.

*OMB Number:* 0518–0042.

*Expiration Date:* February 28, 2013.

*Type of Request:* Approval to seek reinstatement of the ARS Animal Health National Program Assessment Survey, which seeks input from the beneficiaries of research conducted by ARS for program planning and ensures alignment of the Animal Health National Program with the needs of our customers, partners, and stakeholders.

*Abstract:* This voluntary electronic evaluation form will give the beneficiaries of ARS research the opportunity to provide input on the impact of the national program on animal agriculture. For the purpose of this National Program Assessment, impact is defined as research that has influenced or will significantly influence the animal sciences and animal health, has created or will create economic opportunities for producers and farmers, or has enabled or will enable action and regulatory agencies to formulate policies and regulations to support American agriculture. The report and evaluation form will be available on-line through a dedicated URL. The input provided through the completion of the evaluation form will be shared with customers, partners, and stakeholders through webinars, conference calls and/or meetings, which will be held during the input stage of the program planning cycle.

ARS National Program Assessments are conducted every 5 years, through the organization of webinars, conference calls and/or meetings. These input sessions allow ARS to periodically update the vision and rationale of each National Program and assess the relevancy, effectiveness, and responsiveness of ARS research. In addition, these input sessions facilitate the review and simultaneously provide an opportunity for customers, stakeholders, and partners to assess the progress made through the National Program and provide input for future modifications to the National Program or the National Program's research agenda.

In the case of the ARS Animal Health National Program, the beneficiaries of the research are numerous, including the majority of the livestock and poultry industries, trade associations, Federal and State government agencies, and research partners in universities and the private sector. The electronic evaluation form will allow ARS to outreach to its many customers, partners, and stakeholders that are unable to attend the webinars, conference calls and/or meetings and also ensure an efficient means of obtaining the greatest amount of input on the impact and direction of the ARS Animal Health National Research Program.

*Estimate of Burden:* Completing the electronic evaluation form is estimated to average 15 minutes per response.

*Estimated Number of Respondents:* 400.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 100 hours.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the input provided by a wide array of customers, and; (d) ways to minimize the burden of the collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: October 22, 2012.

**Caird E. Rexroad, Jr.,**

*Associate Administrator, ARS.*

[FR Doc. 2012–26616 Filed 10–29–12; 8:45 am]

BILLING CODE 3410–03–P

## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

### Request for Extension and Revision of a Currently Approved Information Collection

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces Grain Inspection, Packers and Stockyards Administration's intention to request that the Office of Management and Budget approve a 3-year extension and revision of a currently approved information collection in support of the reporting and recordkeeping requirements for the Swine Contract Library program.

**DATES:** Written comments must be submitted on or before December 31, 2012.

**ADDRESSES:** We invite you to submit comments on this notice. You may submit comments by any of the following methods:

- *Internet:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail, hand deliver, or courier* to Dexter Thomas, GIPSA, USDA, 1400 Independence Avenue SW., Room 2530–S, Washington, DC 20250–3604.
- *Fax* to (202) 690–2173.

*Instructions:* All comments should refer to the date and page number of this issue of the **Federal Register**. The information collection package, public comments, and other documents relating to this action will be available for public inspection in the above office during regular business hours. Please call GIPSA's Management and Budget Services at (202) 720–7486 to arrange a viewing of these documents.

**FOR FURTHER INFORMATION CONTACT:** Catherine M. Grasso, Program Analyst, Policy and Litigation Division at (202) 720–7363 or *catherine.m.grasso@usda.gov.*

**SUPPLEMENTARY INFORMATION:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is responsible for maintaining the Swine Contract Library, which is authorized by the Livestock Mandatory Reporting (LMR) Act of 1999, and requires that certain packers submit hog procurement contracts and delivery estimates to GIPSA. The Swine Contract Library was reauthorized by Congress on October 5, 2006 through 2010. On September 28, 2010, the Mandatory Price Reporting Act of 2010 reauthorized LMR for an additional 5 years.

*Title:* Swine Contract Library.

*OMB Number:* 0580–0021.

*Expiration Date of Approval:* March 31, 2013.

*Type of Request:* Extension and revision of a currently approved information collection.

*Abstract:* The information collection and recordkeeping requirements for the Swine Contract Library are essential to maintaining the mandatory library of swine marketing contracts and reporting the number of swine contracted for delivery. There are currently 30 packers that are required to file contracts and report certain information on deliveries for a total of 43 plants that they either operate or at which they have swine slaughtered. We expect the overall number of plants and packers to remain relatively constant, but the specific packers required to report will vary with consolidation and construction in the industry.

Packers are required to report information for individual plants even in instances when a given packer owned or used more than one plant. The information collection burden estimate provided below is based on time and cost requirements at the plant level. Consequently, packers that report for more than one plant would bear a cost that would be a multiple of the per-plant estimates.

We understand from discussions with packers complying with current reporting requirements that reporting packers have adapted pre-existing data and information systems to provide the required information.

There are two types of information collections required for the Swine Contract Library.

The first information collection requirement consists of submitting example contracts. Initially, a packer submits example contracts currently in effect or available for each swine processing plant that is subject to the regulations. Subsequently, a packer submits example contracts for any offered, new, or amended contracts that vary from previously submitted contracts in regard to the base price determination, the application of a ledger or accrual account, carcass merit premium and discount schedules (including the determination of the lean percent or other merits of the carcass that is used to determine the amount of the premiums and discounts and how those premiums and discounts are applied), or the use and amount of noncarcass merit premiums or discounts. The initial submission of example contracts requires more time than subsequent filings of new contracts or changes, as packers initially need to review all their contracts to identify the unique types that need to be represented by an example submitted to GIPSA.

Thereafter, subsequent filings require a minimal amount of effort on the part of packers, as only example contracts that represent a new or different type need to be filed with GIPSA. P&SP–342 must accompany each contract submission to identify the contract, the plan for which the contract is valid, and the contact person.

The required submission of contracts includes both written and verbal contracts. Packers have added documentation of verbal contracts to their existing recordkeeping systems in order to comply with this requirement. The optional form that is available, but not required, for reporting verbal contracts is used by 10 packers; 2 packers that rely heavily on verbal contracts use this optional form exclusively to document their verbal contracts. Of 1,022 contracts files on file, the optional verbal contract sheet was used to document 245 verbal contracts.

The second information collection requirement is a monthly filing of summary information on form P&SP 341, Monthly Report: Estimates of Swine To Be Delivered Under Contract. The form for the monthly filing is simple and brief. For new packers required to start reporting, this data should be available in the packers' existing record system. Electronic submission is encouraged and we provide the necessary information on procedures to submit data to GIPSA electronically. In 2011, 50 percent of monthly reports were submitted through the Web site, with the remaining 50 percent submitted by facsimile or mail.

The estimates of time requirements used for the burden estimates below were developed in consultation with GIPSA personnel knowledgeable of the industry's recordkeeping practices. The estimates also reflect our experience in assembling large amount of data during the course of numerous investigations involving use of data collected from the industry. Estimates of time requirements and hourly wage costs for developing electronic recordkeeping and reporting systems are based on our experience in developing similar systems in consultation with our automated information systems staff.

**(1) Contract Submission Cover Sheet (Form P&SP–342)**

*Estimate of Burden:* Reporting burden for submission of contracts is estimated to include 4 hours per plant for an initial review of all contracts to categorize them into types and identify unique examples, plus an additional 0.25 hours per unique contract identified during the initial review to submit an example of that contract. After the initial filing, the reporting burden is estimated to include 0.25 hours per plant to submit an example of each new or amended contract.

*Respondents:* Packers required to report information for the Swine Contract Library.

*Estimated Number of Respondents:* 30 packers (total of 43 plants).

*Estimated Number of Responses per Plant:* Number of responses per plant varies. Some plants would have no contracts, while other could have up to 80 contracts. We receive an average of six example contracts per plant per year for offered contracts and for amended existing or available contracts.

*Estimated Total Annual Burden on Respondents:* Initial filing: 5.5 total hours for the initial filing of examples of existing contracts by all plants newly subject to the regulations combined. Based on changes in the industry, we anticipate one new plant to become subject to the regulations each year. Calculated as follows: 4 hours per plant for initial review × 1 new plant = 4 hours for initial review; 0.25 hours per contract × 6 example contracts per plant × 1 new plant = 1.5 hours; 4 hours + 1.5 hours = 5.5 total hours.

Thereafter, 64.5 total hours annually for all subsequent filing of examples for offered contracts and for amended existing or available contracts by all plants combines, based on an average of 6 offered or amended existing or available contracts annually. Calculated as follows: 0.25 hours per contract × 6 example contracts per plant × 43 plants = 64.5 hours.

Total Cost: Initial filing $138 for all plants combined. Calculated as follows: 5.5 hours × $25 per hour = $138.

Thereafter, $1,613 annually for all plants combined for submission of subsequent filings. Calculated as follows: 64.5 hours × $25 per hour = $1,613.

**(2) Monthly Report: Estimate of Swine To Be Delivered Under Contract (Form P&SP–341)**

*Estimate of Burden:* The reporting burden for compiling data, completing and submitting the form is estimated to average 2 hours per manually prepared and submitted (by mail or facsimile) report and 1 hour per electronically prepared and submitted report. There would be an estimated additional one-time set up burden of 1 hour at a cost of $60 per plant for a packer that chose to create a spreadsheet or database for recordkeeping and preparation of monthly estimates. There would be an estimated additional 2 hour burden at a cost of $60 per hour or $120 per plant for a packer to develop procedures to extract and format the required information and to develop an interface between the packer's electronic recordkeeping system and GIPSA's system. The hourly rate for the development of electronic tools is assumed to be high due to the need to use personnel with specialized computer skills.

*Respondents:* Packers required to report information for the Swine Contract Library.

*Estimated Number of Respondents:* 30 packers (total of 43 plants).

*Estimated Number of Responses per Plant:* 12 (1 per month for 12 months).

*Estimated Total Annual Burden on Respondents:* 1,032 hours for all plants combined provided all plants used manual compiling, preparation, and submission. Calculated as follows: 2 hours per response × 43 plants × 12 responses per plant = 1,032.

516 hours for all plants combined provided all plants use electronic compiling, preparation, and submission. Calculated as follows: 1 hour per response × 43 plants × 12 responses per plant = 516 hours.

Total Cost: $25,800 annually for all plants combined provided all use manual submission. Calculated as follows: 1,032 × $25 per hour = $25,800.

$12,900 annually for all plants combined provided all were to completely utilize electronic preparation and submission. Calculated as follows: 516 hours × $25 per hour = $12,900.

Additional $180 one-time set-up cost provided all plants newly subject to the Regulations were to completely utilize electronic systems for preparation and submission.

Calculated as follows: 1 hour build spreadsheet/database + 2 hours develop electronic interface = 3 hours. 3 hours total development × $60 per hour × 1 new plant = $180.

The Paperwork Reduction Act also requires GIPSA to measure the recordkeeping burden. Under the Packers and Stockyards Act and its existing regulations, each packer is required to maintain and make available upon request any records necessary to verify information on all transactions between the packer and producers from whom the packer obtains swine for slaughter. Records that packers are required to maintain under existing regulations would meet the requirements for verifying the accuracy of information required to be reported for the Swine Contract Library. These records include original contracts, agreements, receipts, schedules, and other records associated with any transaction related to the purchase, pricing, and delivery of swine for slaughter under the terms of marketing contracts. Additional annual costs of maintaining records would be nominal since packers are required to store and maintain such records as a matter of normal business practice and in conformity with existing regulations.

As required by the Paperwork Reduction Act (44 U.S.C. 3506(c)(2)(A)) and its implementing regulations (5 CFR 1320.8(d)(1)), we specifically request comment to:

(a) Evaluate the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) 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;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden on 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.

All responses to this notice will be summarized and included in the request for the Office of Management and Budget approval. All comments will also become a matter of public record.

**Authority:** 44 U.S.C. 3506 and 5 CFR 1320.8.

**Larry Mitchell,**

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 2012–26723 Filed 10–29–12; 8:45 am]

BILLING CODE 3410–EN–P

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Publication of Depreciation Rates

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The United States Department of Agriculture (USDA) Rural Utilities Service (RUS) administers rural utilities programs, including the Telecommunications Program. RUS announces the depreciation rates for telecommunications plant for the period ending December 31, 2011.

**DATES:** These rates are effective immediately and will remain in effect until rates are available for the period ending December 31, 2012.

**FOR FURTHER INFORMATION CONTACT:** Jonathan P. Claffey, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, STOP

1590—Room 5151, 1400 Independence Avenue SW., Washington, DC 20250–1590. Telephone: (202) 720–9556.

**SUPPLEMENTARY INFORMATION:** In 7 CFR part 1737, Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans, § 1737.70(e) explains the depreciation rates that are used by RUS in its feasibility studies. § 1737.70(e)(2) refers to median depreciation rates published by RUS for all borrowers. The following chart provides those rates, compiled by RUS, for the reporting period ending December 31, 2011:

MEDIAN DEPRECIATION RATES OF RURAL UTILITIES SERVICE BORROWERS BY EQUIPMENT CATEGORY FOR PERIOD ENDING DECEMBER 31, 2011

| *Telecommunications plant category* | *Depreciation rate* |
|---|---|
| 1. Land and Support Assets: | |
| a. Motor vehicles | 16.00 |
| b. Aircraft | 12.00 |
| c. Special purpose vehicles | 13.03 |
| d. Garage and other work equipment | 10.00 |
| e. Buildings | 3.20 |
| f. Furniture and office equipment | 10.00 |
| g. General purpose computers | 20.00 |
| 2. Central Office Switching: | |
| a. Digital | 9.00 |
| b. Analog & Electro-mechanical | 10.00 |
| c. Operator Systems | 9.00 |
| 3. Central Office Transmission: | |
| a. Radio Systems | 9.95 |
| b. Circuit equipment | 10.00 |
| 4. Information origination/termination: | |
| a. Station apparatus | 11.90 |
| b. Customer premises wiring | 10.00 |
| c. Large private branch exchanges | 11.40 |
| d. Public telephone terminal equipment | 11.25 |
| e. Other terminal equipment | 10.20 |
| 5. Cable and wire facilities: | |
| a. Aerial cable—poles | 6.00 |
| b. Aerial cable—metal | 5.80 |
| c. Aerial cable—fiber | 5.00 |
| d. Underground cable—metal | 5.00 |
| e. Underground cable—fiber | 5.00 |
| f. Buried cable—metal | 5.15 |
| g. Buried cable—fiber | 5.00 |
| h. Conduit systems | 3.50 |
| i. Other | 5.59 |

Dated: October 9, 2012.

**John Padalino,**

*Acting Administrator of the Rural Utilities Service.*

[FR Doc. 2012–26687 Filed 10–29–12; 8:45 am]

BILLING CODE P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* International Trade Administration.

*Title:* International Client Life-cycle Multi-Purpose Forms.

*OMB Control Number:* 0625–0237.

*Form Number(s):* ITA–4096P.

*Type of Request:* Regular submission (revision of a currently approved information collection).

*Burden Hours:* 14,234.

*Number of Respondents:* 47,318.

*Average Hours per Response:* 5–30 minutes.

*Annual Cost to the Public:* $8,625,000 ($345 per client for 25,000 Events and Activities services).

*Needs and Uses:* The Commercial Service (CS) offers their clients DOC programs, market research, and services to enable the client to begin importing or to expand existing importing efforts. Specific information is required in order to determine the client's business objectives and needs. This information collection is designed to elicit such data so that appropriate services can be proposed and conducted to most effectively meet the client's importing goals. The CS has made efforts to provide more customized services to clients thereby requesting approval to use a service order form for customized services as well as for standardized services such as the International Partner Search and Gold Key Service. The information collected is used internally and is not disseminated to the public.

These forms will also reduce client burden through forms' flexibility and technology. The CS also seeks increased forms flexibility to ensure that CS asks and captures only the specific information needed for a particular service/event, thereby continuing to reduce client burdens as CS utilizes pre-populated information for clients who have previously registered with CS. As a client request specific CS services, a set of questions will be presented to determine how CS will proceed to give the client the best export outcome.

This revision to produce a customized form for each CS client, and will cover all aspects of an international client's life-cycle with CS, involves merging with other information collections: OMB Control Nos: 0625–0065, 0625–0130, 0625–0151, 0625–0215, 0625–0220, 0625–0228, 0625–0143, and 0625–0238. These collections include all client intake, events/activities and export success forms. The set of questions used to generate the customized forms have been approved under the aforementioned information collections. Upon OMB approval, these information collections will be discontinued.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Wendy Liberante, (202) 395–3647.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov.)*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Wendy Liberante, OMB Desk Officer, Fax number (202) 395–5167 or via the Internet at *Wendy_L._Liberante@omb.eop.gov.*

Dated: October 24, 2012.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2012–26556 Filed 10–29–12; 8:45 am]

BILLING CODE 3510–FP–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Institute of Standards and Technology (NIST).

*Title:* Usage of Elevators for Occupant Evacuation Questionnaire.

*OMB Control Number:* 0693–0061.

*Form Number(s):* None.

*Type of Request:* Regular submission (reinstatement with change of a previously approved information collection).

*Burden Hours:* 375.

*Number of Respondents:* 1,500.

*Average Hours per Response:* 15 minutes.

*Needs and Uses:* NIST's research on elevators has primarily focused on the technical aspects of ensuring safe and reliable evacuation for the occupants of tall buildings. In addition, the International Code Council and the National Fire Protection Association provide requirements for the use of elevators for both occupant evacuation and fire fighter access into the building. However, there still is little understanding of how occupants use elevator systems during fire emergencies.

The main focus of this research effort is to gain an understanding of how elevators are currently used by occupants of existing multi-story buildings in the United States during fire emergencies. This research aims to summarize emergency plans and procedures from buildings that make use of one or multiple elevators from the existing elevator system (used for normal building traffic) for the evacuation of building occupants during fire emergencies. The respondents will be contacted to fill out a questionnaire asking about how the buildings' evacuation plans incorporate the use of the existing elevator system to evacuate occupants during fire emergencies, specifically individuals with disabilities, if at all.

*Revisions:* After further review of the survey, it was determined that some of the survey questions could potentially identify the respondent or at least the individuals with which the respondent works; and the possibility to identify individuals within the respondent's building (i.e., the building occupants or residents). These questions were revised or deleted.

*Affected Public:* Selected individuals, such as building managers and designated safety personnel, who are familiar with or in charge of developing emergency procedures for multi-story buildings in the United States, including both federal and private sector buildings.

*Frequency:* One time only.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Jasmeet Seehra, (202) 395–3123.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to, OMB Desk Officer, Jasmeet Seehra, FAX Number (202) 395–5167, or *Jasmeet_K._Seehra@omb.eop.gov*).

Dated: October 25, 2012.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2012–26643 Filed 10–29–12; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### U.S. Census Bureau

### Correction: Proposed Information Collection; Comment Request; Manufacturers' Unfilled Orders Survey

**AGENCY:** U.S. Census Bureau, Commerce.

**ACTION:** Correction.

**SUMMARY:** On October 16, 2012, a notice was published in the **Federal Register** (77 FR 63288) on the proposed information collection, Manufacturers' Unfilled Orders Survey.

Under the heading **SUPPLEMENTARY INFORMATION**, I. Abstract, the following information was omitted:

'We plan to add a box for ''Change in Operational Status'' to the MA–3000 for 2012. This change does not affect burden because the information asked is readily available by the respondents or not applicable to those companies without an operational status change.'

All other information in the notice is correct and remains unchanged.

Dated: October 25, 2012.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2012–26654 Filed 10–29–12; 8:45 am]

**BILLING CODE 3510–09–P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[10/20/2012 through 10/24/2012]

| Firm name | Firm address | Date accepted for investigation | Product(s) |
|---|---|---|---|
| Tooling Dynamics, LLC ..... | 905 Vogelsong Road, York, PA 17404. | 10/22/2012 | Manufacturer of percision mico miniature metal stampings and Swiss Screw machines parts such as screws and pins for aerospace, automotive, appliances, computers. |
| Woodfold Manufacturing, Inc. | 1811 18th Avenue, Forest Grove, OR 97116. | 10/22/2012 | Manufacturer of wood roll up doors, harwood shutters and accordian doors, and book case doors. |

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no

later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: October 24, 2012.

**Miriam Kearse,**

*Eligibility Examiner.*

[FR Doc. 2012–26613 Filed 10–29–12; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–848]**

### Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* October 30, 2012.

**SUMMARY:** The Department of Commerce (''Department'') has determined that a request for a new shipper review (''NSR'') of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (''PRC''), meets the statutory and regulatory requirements for initiation. The period of review (''POR'') for this NSR is September 1, 2011, through August 31, 2012.

**FOR FURTHER INFORMATION CONTACT:** Dustin Ross, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; Telephone: 202–482–0747.

**SUPPLEMENTARY INFORMATION:**

### Background

The antidumping duty order on freshwater crawfish tail meat from the PRC published in the **Federal Register** on September 15, 1997.[1] On September 28, 2012, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (''Act''), we received a timely request for an NSR of the antidumping duty order on freshwater crawfish tail meat from the PRC from Deyan Aquatic Products and Food Co., Ltd. (''Deyan Aquatic'').[2] Deyan Aquatic certified that it is both the producer and exporter of the subject merchandise upon which the request was based.[3]

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Deyan Aquatic certified that it did not export subject merchandise to the United States during the period of investigation (''POI'').[4] In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Deyan Aquatic certified that, since the initiation of the investigation, it has never been affiliated with any exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the POI.[5] As required by 19 CFR 351.214(b)(2)(iii)(B), Deyan Aquatic also certified that its export activities were not controlled by the government of the PRC.[6]

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2), Deyan Aquatic submitted documentation establishing the following: (1) The date on which Deyan Aquatic first shipped subject merchandise for export to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.[7]

### Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that Deyan Aquatic's request meets the threshold requirements for initiation of an NSR for the shipment of freshwater crawfish tail meat from the PRC produced and exported by Deyan Aquatic.[8]

The POR for this NSR is September 1, 2011, through August 31, 2012. *See* 19 CFR 351.214(g)(1)(i)(A). The Department intends to issue the preliminary results of this review no later than 180 days from the date of initiation and final results of this review no later than 270 days from the date of initiation. *See* section 751(a)(2)(B)(iv) of the Act.

It is the Department's usual practice, in cases involving non-market economy countries, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue a questionnaire to Deyan Aquatic, which will include a section requesting information concerning Deyan Aquatic's eligibility for a separate rate. The review will proceed if the response provides sufficient indication that Deyan Aquatic is not subject to either *de jure* or *de facto* government control with respect to its export of subject merchandise.

We will instruct U.S. Customs and Border Protection to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from Deyan Aquatic in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Deyan Aquatic certified that it produced and exported the subject merchandise, the sale of which is the basis for this NSR request, we will apply the bonding privilege to Deyan Aquatic only for subject merchandise which Deyan Aquatic both produced and exported.

To assist in its analysis of the *bona fides* of Deyan Aquatic's sales, upon initiation of this NSR, the Department will require Deyan Aquatic to submit on an ongoing basis complete transaction information concerning any sales of subject merchandise to the United States that were made subsequent to the POR.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: October 24, 2012.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012–26660 Filed 10–29–12; 8:45 am]

**BILLING CODE 3510–DS–P**

[1] *See Notice of Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat From the People's Republic of China,* 62 FR 48218 (September 15, 1997).

[2] *See* Freshwater Crawfish Tail Meat from the People's Republic of China: New Shipper Review Request, dated September 28, 2012.

[3] *See id.* at 1.

[4] *Id.* at Ex. 2.

[5] *Id.*

[6] *Id.*

[7] *Id.* at Ex. 1.

[8] *See* Memorandum to the file, from Dustin Ross, Operations Analyst, ''Initiation Checklist of AD New Shipper Review: Freshwater Crawfish Tailmeat from the People's Republic of China (A–570–848),'' dated concurrently with this notice. *See also* ''Memorandum to the File,'' from Dustin Ross, Operations Analyst, ''Freshwater Crawfish Tailmeat from the People's Republic of China: Placing CBP data on the Record,'' dated concurrently with this notice.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–601]**

### Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* October 30, 2012.

**SUMMARY:** On June 1, 2012, the Department of Commerce (the ''Department'') published in the **Federal Register** the preliminary results of the antidumping duty new shipper review (NSR) of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (''TRBs'') from the People's Republic of China (''PRC'') covering sales of subject merchandise produced and exported by GGB Bearing Technology (Suzhou) Co., Ltd. (''GGB'') during the period of review (''POR'') of June 1, 2010, through May 31, 2011.[1] In accordance with 19 CFR 351.309(c)(ii), we gave interested parties an opportunity to comment on the *Preliminary Results.* Based on our analysis of the comments received, the Department has made changes to the *Preliminary Results.* The final weighted-average dumping margin for GGB is listed below in the section entitled ''Final Results of the New Shipper Review.''

**FOR FURTHER INFORMATION CONTACT:** Lori Apodaca or Jeff Pedersen, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4551 or (202) 482–2769, respectively.

**SUPPLEMENTARY INFORMATION:** We published the *Preliminary Results* for this NSR on June 1, 2012. In the *Preliminary Results,* the Department stated that interested parties were to submit case briefs within 30 days of publication of the *Preliminary Results* and rebuttal briefs within five days after the due date for filing case briefs. On June 27, 2012, the Department extended the deadlines for the case briefs and rebuttal briefs until July 10, 2012 and July 16, 2012, respectively.[2] On July 10, 2012, the Department received case briefs from Petitioner and GGB. On July 16, 2012, the Department received rebuttal briefs from Petitioner and GGB.

#### Period of Review

The POR is June 1, 2010, through May 31, 2011.

#### Scope of the Order

Imports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15[3] and 8708.99.80.80.[4] Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

#### Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in these reviews are addressed in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, ''Issues and Decision Memorandum for the Final Results of the New Shipper Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China,'' dated October 19, 2012 (''Issues and Decision Memorandum''), which is hereby adopted by this notice. A list of the issues that parties raised and to which the Department responded in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit in room 7046 in the main Commerce Department building, and is also accessible on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the memorandum are identical in content.

#### Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made the following changes to our *Preliminary Results:*

- The normal value that was compared to U.S. price was calculated using certain factors of production that were reported on a per-kilogram basis while U.S. price was reported on a per-piece basis. In the final results, we corrected the dumping analysis to accurately reflect GGB's reported consumption of its inputs on a per-piece basis.[5]
- We used the incorrect variable name for the entered value of the TRBs sold by GGB during the POR. In the final results, we corrected the variable name in the margin program to accurately reflect the reported variable name for entered value and corrected the assessment rate programming language.[6]
- GGB reported a steel scrap by-product. We intended to grant an offset for this byproduct but made a clerical error in the *Preliminary Results* by not granting an offset for the steel scrap but rather, adding it to direct materials in the calculation of normal value. In the final results, we corrected the normal value calculation to include steel scrap as a by-product offset.[7]
- We have recalculated surrogate financial ratios using different financial statements from those used in the *Preliminary Results.*[8]

#### New Shipper Status

No party has contested the *bona fide* nature of GGB's sales during the POR. Therefore, for these final results, we find, as in the *Preliminary Results,* that the sales made by GGB during the POR of this NSR were made on a *bona fide* basis.

#### Surrogate Country

Since the *Preliminary Results,* no interested party has commented on the selection of Thailand as the primary surrogate country. Therefore, we continue to determine that Thailand is

[1] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review,* 77 FR 32522 (June 1, 2012) (''*Preliminary Results*'').

[2] *See* Memorandum to All Interested Parties regarding, ''Antidumping Duty New Shipper Review of Tapered Roller Bearings from the People's Republic of China: Request to Extend Deadlines for Case Briefs,'' dated June 27, 2012.

[3] Effective January 1, 2007, the HTSUS subheading 8708.99.8015 is renumbered as 8708.99.8115. *See* United States International Trade Commission (''USITC'') publication entitled, ''Modifications to the Harmonized Tariff Schedule of the United States Under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988,'' USITC Publication 3898 (December 2006) found at *www.usitc.gov.*

[4] Effective January 1, 2007, the HTSUS subheading 8708.99.8080 is renumbered as 8708.99.8180; *see Id.*

[5] *See* Issues and Decision Memorandum at Comment 1.

[6] *See* Issues and Decision Memorandum at Comment 2.

[7] *See* Issues and Decision Memorandum at Comment 3.

[8] *See* Issues and Decision Memorandum at Comment 4.

the appropriate primary surrogate country for the final results of this NSR.

**Separate Rates**

The Department found in the *Preliminary Results* that GGB was wholly foreign-owned, and, therefore, further analysis was not necessary to determine whether GGB's export activities are independent from government control.[9] No party has contested the separate rate status of GGB during the POR. Therefore, for the final results, we continue to determine that GGB is eligible for a separate rate.

**Final Results of the New Shipper Review**

The Department has determined that the following weighted-average dumping margin exists for GGB for the period June 1, 2010, through May 31, 2011:

| Exporter/producer | Weighted-average dumping margin (percent) |
|---|---|
| GGB Bearing Technology (Suzhou) Co., Ltd./GGB Bearing Technology (Suzhou) Co., Ltd. | 12.64 |

**Disclosure**

The Department will disclose the calculations performed for these final results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

**Assessment Rates**

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Because GGB's weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties the appropriate entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis.*

[9] *See Preliminary Results,* 77 FR at 32523–24.

**Cash Deposit Requirements**

Consistent with Departmental practice in new shipper reviews, the Department has established a combination cash deposit rate for GGB as described below. The following cash deposit requirements will be effective upon publication of the final results of this NSR for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (''the Act''): (1) For subject merchandise exported and produced by GGB, the cash deposit rate will be the rate established in the final results of this review; (2) for subject merchandise exported by GGB but not produced by GGB, the cash deposit rate will be the PRC-wide rate of 92.84 percent; (3) for subject merchandise produced by GGB but not exported by GGB, the cash deposit rate will be the rate applicable to the exporter; (4) for other previously investigated or reviewed PRC and non-PRC exporters that have separate rates, the cash deposit rate will continue to be the rate published for the most recently completed segment of this proceeding; (5) for all other PRC exporters of subject merchandise, the cash deposit rate will be the PRC-wide rate of 92.84 percent; and (6) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Interested Parties**

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The Department is issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: October 19, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012–26665 Filed 10–29–12; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–570–836]**

## Glycine From the People's Republic of China: Notice of Initiation of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) has received a request for a new shipper review of the antidumping duty order on glycine from the People's Republic of China (the PRC). *See Antidumping Duty Order: Glycine From the People's Republic of China,* 60 FR 16115 (March 29, 1995) (*Order*). In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d), we are initiating an antidumping duty new shipper review of Hebei Donghua Jiheng Fine Chemical Co., Ltd. (Donghua Fine Chemical). The period of review (POR) of this new shipper review is March 1, 2012, through August 31, 2012.

**DATES:** *Effective Date:* October 30, 2012.

**FOR FURTHER INFORMATION CONTACT:** Brian Davis or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–7924 or (202) 482–3019, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 29, 1995, the Department published the antidumping duty order on glycine from the PRC. *See Order.* Thus, the antidumping duty order on glycine from the PRC has a March anniversary month. On September 28, 2012, the Department received a timely filed request for a new shipper review from Donghua Fine Chemical and Hebei Donghua Jiheng Chemical Co., Ltd. (Donghua Chemical). In its request for a review, Donghua Fine Chemical identified itself as both a producer and exporter of the subject merchandise and Donghua Chemical as a producer who provided the input product that was further processed by Donghua Fine Chemical to produce the subject merchandise that was exported to the United States. Both Donghua Fine Chemical and Donghua Chemical state that they are affiliates within the

meaning of the Department's affiliation rules.[1]

Pursuant to the requirements set forth in section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(b)(2), Donghua Fine Chemical certified that (1) it did not export subject merchandise to the United States during the period of investigation (POI) (*see* section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i)); and (2) since the initiation of the investigation, it has never been affiliated with any company that exported subject merchandise to the United States during the POI, including those companies not individually examined during the investigation (*see* section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A)). Furthermore, as required by 19 CFR 351.214(b)(2), Donghua Fine Chemical's supplier, Donghua Chemical, provided certifications that (1) it did not export the subject merchandise to the United States during the POI or at any time following the POI and (2) since the initiation of the investigation, they have never been affiliated with any company that exported subject merchandise to the United States during the POI, including those companies not individually examined during the investigation. Additionally, in accordance with 19 CFR 351.214(b)(2)(iv), Donghua Fine Chemical submitted documentation establishing the following: (1) the date on which it first shipped subject merchandise to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated purchaser for exportation to the United States.

## Initiation of Review

Based on information on the record and in accordance with section 751(a)(2)(B) of the Act, and 19 CFR 351.214(d), we find that the request meets the statutory and regulatory requirements for initiation of a new shipper review. *See* Memorandum to the File, through Angelica L. Mendoza, Program Manager, Antidumping and Countervailing Duty Operations, Office 7, regarding ''Initiation of the Antidumping Duty New Shipper Review: Glycine from the People's Republic of China,'' dated October 23, 2012 (NSR Initiation Checklist). Accordingly, we are initiating a new shipper review of the antidumping duty order on glycine from the PRC exported by Donghua Fine Chemical, for the period March 1, 2012, through August 31, 2012.

However, the Department has concerns with certain other information contained within the entry data received from U.S. Customs and Border Protection (CBP). Due to the business proprietary nature of this information, please refer to the NSR Initiation Checklist for further discussion. The Department intends to address this issue after initiation of the new shipper review. If the Department subsequently determines, based on information collected, that a new shipper review for Donghua Fine Chemical is not warranted, the Department expects to rescind the review or apply facts available pursuant to section 776 of the Act, as appropriate.

We intend to issue the preliminary results of this review no later than 180 days after the date on which this review is initiated, and the final results within 90 days after the date on which we issue the preliminary results. *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(h)(i).

We will instruct CBP to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for certain entries of the subject merchandise exported and produced by Donghua Fine Chemical in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Donghua Fine Chemical certified that it exports the subject merchandise, the sale of which forms the basis for its new shipper review request, we will instruct CBP to permit the use of a bond only for entries of subject merchandise which Donghua Fine Chemical exported.

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and this notice are issued and published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: October 23, 2012.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012–26671 Filed 10–29–12; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See* 771(33) of the Act and section 351.102(b)(3) of the Department's Regulations.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–357–812]**

### Honey From Argentina: Final Rescission of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* October 30, 2012.

**SUMMARY:** On July 31, 2012, the Department of Commerce (the ''Department'') published a notice of preliminary rescission of the new shipper review (''NSR'') of D'Ambros María de los Angeles and D'Ambros María Daniela SH, an Argentine partnership doing business as Apícola Danangie (''Danangie''), under the antidumping duty order on honey from Argentina for the period of December 1, 2010, through November 30, 2011.[1] We invited interested parties to comment on our preliminary rescission. We did not receive comments from any party. As discussed below, based on our analysis of the record, the Department has determined that Danangie did not satisfy the regulatory requirements for a NSR; therefore, we are rescinding this NSR.

**FOR FURTHER INFORMATION CONTACT:** Patrick Edwards or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone: (202) 482–8029 or (202) 482–3019, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

We published the notice of preliminary rescission of this new shipper review on July 31, 2012.[2] In the *Preliminary Rescission,* the Department found that Danangie, based on the company's own submission to the Department, did make a sale of subject merchandise which was shipped to the United States prior to the current new shipper period, and therefore, did not qualify for a NSR.[3] The complete discussion of the Department's decision to preliminarily rescind the NSR was set forth in its preliminary analysis memorandum, dated July 31, 2012.[4] We

[1] *See Honey from Argentina: Preliminary Rescission of Antidumping Duty New Shipper Review,* 77 FR 45334 (July 31, 2012) (*Preliminary Rescission*).

[2] *See Preliminary Rescission.*

[3] *See Preliminary Rescission* at 45334.

[4] *See* Memorandum to Angelica L. Mendoza, AD/CVD Operations, Office 7, entitled ''Preliminary

invited interested parties to comment on our preliminary rescission of this NSR. No party submitted comments.

**Period of Review**

Pursuant to 19 CFR 351.214(g), the period of review (''POR'') for this NSR is the annual period of December 1, 2010, through November 30, 2011.

**Scope of the Order**

The merchandise covered by the order is honey from Argentina. The products covered are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form. The merchandise is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under the order is dispositive.

**Rescission of the Antidumping Duty New Shipper Review**

The NSR provisions of the Department's regulations require that the entity making a request for an NSR must document and certify, among other things: (1) The date on which subject merchandise of the exporter or producer making the request was first entered or withdrawn from warehouse, for consumption, or, if it cannot establish the date of first entry, the date on which the exporter or producer first shipped the merchandise for export to the United States; (2) the volume of that and subsequent shipments; and (3) the date of the first sale to an unaffiliated customer in the United States.[5] The Department has not acquired nor received any additional information that would alter our preliminary determination that Danangie, having sold subject merchandise prior to the new shipper review period, does not qualify for a NSR in accordance with 19 CFR 351.241(c), as Danangie failed to certify to and document its first entry of subject merchandise (honey) into the United States. Furthermore, since the publication of the *Preliminary Rescission,* the Department solicited comments from interested parties regarding the intended rescission of the NSR for Danangie; the Department received no comments.

Because we find Danagie did not have a qualifying, first entry during the new shipper period, we find that there is no qualifying sale to review. As such, we are rescinding this NSR. Accordingly, the all-others antidumping duty margin of 30.24 percent still applies for shipments of honey exported by Danangie for the period December 1, 2010, through November 30, 2011. We note that the Department revoked the antidumping duty order on honey from Argentina on September 21, 2012, with revocation effective August 2, 2012.[6] Therefore, and as discussed below, we are rescinding this NSR and terminating suspension and the collection of cash deposits.

**Assessment Rate**

The Department shall determine, and U.S. Customs and border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. Because we are rescinding this NSR, the all others rate of 30.24 percent applies to all exports of honey exported by Danangie. The assessment rate for Danangie's shipments, however, could change as the Department is conducting an administrative review of the antidumping duty order on honey from Argentina covering Danangie and the period of December 1, 2010, through November 30, 2011. Thus, we will instruct CBP to continue to suspend entries during the period December 1, 2010, through November 30, 2011, of subject merchandise exported by Danangie until CBP receives instructions relating to the administrative review of the honey antidumping order covering the period December 1, 2010, through November 30, 2011.

**Termination of Suspension of Liquidation**

As noted above, the Department revoked the antidumping duty order on honey from Argentina effective August 2, 2012. *See Revocation.* Pursuant to revocation of the order, the Department instructed CBP, on October 9, 2012, to terminate suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered, or withdrawn from warehouse, on or after August 2, 2012. Accordingly, entries of subject merchandise on or after August 2, 2012, are not subject to suspension of liquidation or antidumping duty deposit requirements.

**Notification to Importers**

This notice serves as a reminder to the importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The NSR and rescission notice are published in accordance with sections 751(a)(2)(B) and 777(i) of the Act, as amended and 19 CFR 351.214(f).

Dated: October 22, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012–26664 Filed 10–29–12; 8:45 am]

BILLING CODE 3510–DS–P

Analysis of Apicola Danangie's Entries in the Antidumping Duty New Shipper Review of Honey from Argentina,'' dated July 31, 2012.

[5] *See* 19 CFR 351.214(b)(2)(iv).

[6] *See Honey From Argentina; Final Results of Sunset Reviews and Revocation of Antidumping Duty and Countervailing Duty Orders,* 77 FR 58524 (September 21, 2012) (''*Revocation*'').

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–570–968]**

### Aluminum Extrusions From the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* October 30, 2012.

**FOR FURTHER INFORMATION CONTACT:** Kristen Johnson or Robert Copyak AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793or (202) 482–2209, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 1, 2012, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the countervailing duty order on aluminum extrusions from the People's Republic of China (PRC).[1] Pursuant to requests from interested parties, the Department published in the **Federal Register** the notice of initiation of this antidumping

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 77 FR 25679 (May 1, 2012).

duty administrative review with respect to 67 companies for the period September 7, 2010, through December 31, 2011.[2]

Between June and October 2012, numerous review requests were withdrawn.[3]

**Partial Rescission of the 2010–2011 Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. The Department initiated the instant review on July 10, 2012.[4] As noted above, withdrawals of review requests were filed with regard to the following companies: GFT, Activa, Zhejiang Zhengte, Hongjia, Tianjin Ganglv, MYB, Alnan, Clear Sky, Midea, Nidec Sankyo Zhejang, Nidec Sankyo Sinapore, Ningbo Coaster, Guangya Aluminum, Zhongya, Shanghai Dongshen, Shanghai Shen Hang, and Sihui Shi Guo Yao. The withdrawals of review requests were submitted within the 90-day deadline set forth under 19 CFR 351.213(d)(1). Further, no other party requested an administrative review of these particular companies. Therefore, in accordance with 19 CFR 351.213(d)(1), and consistent with our practice, we are rescinding this review of the countervailing duty order on aluminum extrusions from the PRC with respect to the companies listed above.[5] The instant review will continue with respect to all other firms for which a review was requested and initiated.

**Assessment**

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. For the companies for which this review is rescinded[6] countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period September 7, 2010, through December 31, 2011, in accordance with 19 CFR 351.212(c)(1)(i).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

**Notification Regarding Administrative Protective Order**

This notice serves as a final reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 23, 2012

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012–26661 Filed 10–29–12; 8:45 am]

**BILLING CODE 3510–DS–P**

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 40565 (July 10, 2012) (*Initiation*).

[3] On June 18, 2012, Air Master Windows and Doors (Air Master) withdrew its request for review of Guangdong Foreign Trade Imp. & Exp. Corp. (GFT); on August 15, 2012, Trivantage withdrew its request for review of Activa International Inc (Activa); on August 15, 2012, Zhejiang Zhengte Group Co. Ltd. withdrew its request for review (Zhejiang Zhengte); on September 9, 2012, Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd. (Hongjia) and Tianjin Ganglv Nonferrous Metal Materials Co., Ltd. (Tianjin Ganglv) withdrew their requests for review; on September 24, 2012, Eagle Metal Distributors, Inc. withdrew its request for review of Mei Ya Bao Aluminum Co., Ltd. (MYB); on September 25, 2012, Electrolux North America, Inc., Electrolux Home Products, Inc. and Electrolux Major Appliances (collectively, ''Electrolux'') withdrew its request for review of Alnan Aluminium Co., Ltd. (Alnan), Clear Sky Inc. (Clear Sky), Midea Air-Conditioning Equipment Co., Ltd. (Midea), Nidec Sankyo (Zhejang) Corporation (Nidec Sankyo Zhejang), Nidec Sankyo Singapore Pte. Ltd. (Nidec Sankyo Singapore), and Ningbo Coaster International Co., Ltd. (Ningbo Coaster); on October 4, 2012, Guangya Aluminum Industrial Co., Ltd. (Guangya Aluminum) withdrew its request for review; on October 5, 2012, Zhaoqing New Zhongya Aluminum Co., Ltd. and Guangdong Zhongya Aluminum Company Limited (collectively Zhongya) withdrew its request of review; on October 9, 2012, Newell Rubbermaid Inc. withdrew its request for review of Shanghai Dongsheng Metal (Shanghai Dongshen) and Shanghai Shen Hang Imp. & Exp. Co., Ltd. (Shanghai Shen Hang); on October 9, 2012, J.A. Hancock & Co. Inc. withdrew its request for review of Sihui Shi Guo Yao Aluminum Co., Ltd. (Sihui Shi Guo Yao).

[4] *See Initiation.*

[5] *See, e.g., Certain Lined Paper Products From India: Notice of Partial Rescission of Antidumping Duty Administrative Review and Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 21781 (May 11, 2009).

[6] GFT, Activa, Zhejiang Zhengte, Hongjia, Tianjin Ganglv, MYB, Alnan, Clear Sky, Midea, Nidec Sankyo Zhejang, Nidec Sankyo Sinapore, Ningbo Coaster, Guangya Aluminum, Zhongya, Shanghai Dongshen, Shanghai Shen Hang, and Sihui Shi Guo Yao,

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–910]**

### Correction to Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Circular Welded Carbon Quality Steel Pipe From the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On August 30, 2012, the Department of Commerce (''the Department'') published a notice in the **Federal Register** that inadvertently omitted an exporter and producer receiving an amended antidumping duty cash deposit rate as part of implementation of its determinations under section 129 of the Uruguay Round Agreements Act (''URAA'') regarding the antidumping duty investigation on circular welded carbon quality steel pipe (''CWP'') from the People's Republic of China (''PRC'').[1] This notice is a correction.

**DATES:** *Effective Date:* August 21, 2012.

**FOR FURTHER INFORMATION CONTACT:** Daniel Calhoun, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1439.

**SUPPLEMENTARY INFORMATION:** On August 21, 2012, the U.S. Trade Representative instructed the Department to implement its determinations under section 129 of the URAA regarding the antidumping duty investigation on CWP from the PRC, which renders them not inconsistent with the World Trade Organization (''WTO'') dispute settlement findings in *United States—Definitive Anti-Dumping and Countervailing Duties on Certain Products from China,* WT/DS379/AB/R (March 11, 2011) (''DS 379''). The Department issued its final determinations in these section 129 proceedings on July 31, 2012.[2] On

[1] *See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People's Republic of China,* 77 FR 52683 (August 30, 2012) (''*Implementation of Section 129 Determinations*'').

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Import Administration, regarding: Final Determinations: Section 129 Proceedings Pursuant to the WTO Appellate Body's Findings in WTO DS 379 Regarding the Antidumping and Countervailing Duty Investigations of Circular Welded Carbon Quality

August 30, 2012, the Department published its notice of implementation of determinations under section 129 of the URAA in the antidumping duty investigation on CWP from the PRC.[3]

Subsequent to publication, we identified a clerical error in *Implementation of Section 129 Determinations* as published in the **Federal Register**. One of the CWP exporter/producer chain rates was inadvertently omitted from the chart under the section entitled, ''Final Determinations: Recalculated Antidumping Duty Cash Deposit Rates.'' The Department is now correcting this inadvertent error. The names of the exporter and producer are listed below:

**Final Determinations: Recalculated Antidumping Duty Cash Deposit Rates**

AMENDED ANTIDUMPING DUTY CASH DEPOSIT RATES (PERCENT) CIRCULAR WELDED CARBON QUALITY STEEL PIPE FROM THE PRC

| Exporter | Producer | Weighted-Average Dumping Margin [4] | Revised Cash Deposit Rate |
|---|---|---|---|
| Shanghai Metals & Minerals Import & Export Corp. | Huludao Steel Pipe Industrial Co., Ltd. ..... | 69.20 | 45.35 |

[4] *See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 31970, 31973 (June 5, 2008).

All recalculated countervailing duty rates and antidumping duty cash deposit rates as published in *Implementation of Section 129 Determinations* remain unchanged.

**Implementation of the Revised Cash Deposit Requirements**

With respect to this proceeding, the cash deposit rate for the above-named exporter/producer combination has not been superseded by intervening administrative reviews. Therefore, the Department will instruct U.S. Customs and Border Protection to require a cash deposit for estimated antidumping duties at the appropriate rate for the exporter/producer combination specified above, for entries of subject merchandise, entered or withdrawn from warehouse, for consumption, on or after August 21, 2012.

This correction of the notice of implementation of this section 129 determination is published in accordance with section 129(c)(2)(A) of the URAA.

Dated: October 19, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012–26668 Filed 10–29–12; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See Implementation of Section 129 Determinations.*

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### Prospective Grant of Exclusive Patent License

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of prospective grant of exclusive patent license.

**SUMMARY:** This is a notice in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology (''NIST''), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States of America, its territories, possessions and commonwealths, to NIST's interest in the invention embodied in U.S. Patent Application No. 61/625,511 titled ''UV-Assisted Alcohol Sensing with Zinc Oxide Functionalized Gallium Nitride Nanowires,'' NIST Docket No. 12–020 to the University of Maryland, having a place of business at 0133 Cole Student Activities Building, College Park MD 20742–1001. The grant of the license would be for all fields of use.

**FOR FURTHER INFORMATION CONTACT:** Terry Lynch, National Institute of Standards and Technology, Technology Partnerships Office, 100 Bureau Drive, Stop 2200, Gaithersburg, MD 20899, (301) 975–2691, *terry.lynch@nist.gov.*

**SUPPLEMENTARY INFORMATION:** The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

U.S. Patent Application No. 61/625,511 is co-owned by the U.S. government, as represented by the Secretary of Commerce, George Washington University and the University of Maryland. Alcohol sensors using gallium nitride (GaN) nanowires (NWs) functionalized with zinc oxide (ZnO) nanoparticles have been demonstrated. These sensors operate at room temperature, are fully recoverable and demonstrate a response and recovery time of the order of 100 s. The sensing is assisted by UV light within the 215 nm–400 nm band and with the intensity of 375 nW/cm2 measured at 365 nm. The ability to functionalize an inactive nanowire surface, with analyte specific active metal oxide nanoparticles makes this sensor technique suitable for fabricating multi-analyte sensor arrays.

Dated: October 23, 2012.

**Willie E. May,**

*Associate Director for Laboratory Programs.*

[FR Doc. 2012–26674 Filed 10–29–12; 8:45 am]

BILLING CODE 3510–13–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XC322**

### Endangered Species; File No. 16248

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that the Riverbanks Zoo and Garden, P.O. Box 1060, Columbia, South Carolina 29202 [Jennifer Rawlings, Responsible Party], has applied in due form for a permit to hold shortnose sturgeon (*Acipenser brevirostrum*) for the purposes of enhancement.

Steel Pipe from the People's Republic of China, dated July 31, 2012.

**DATES:** Written, telefaxed, or email comments must be received on or before November 29, 2012.

**ADDRESSES:** The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16248 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 16248 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Colette Cairns or Jennifer Skidmore, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The Riverbanks Zoo and Garden is requesting a permit to continue enhancement activities previously authorized under Permit No. 1589. Activities would include the care and maintenance of two captive-bred, non-releasable shortnose sturgeon. The display would be used to increase public awareness of the shortnose sturgeon and its status by educating the public on shortnose sturgeon life history and the reasons for the species decline. The proposed project to display endangered cultured shortnose sturgeon responds directly to a recommendation from the NMFS recovery plan outline for this species. The permit would not authorize any takes from the wild, nor would it authorize any release of captive sturgeon into the wild. The permit is requested for a duration of five years.

Dated: October 25, 2012.

**P. Michael Payne,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2012–26682 Filed 10–29–12; 8:45 am]

**BILLING CODE 3510–22–P**

---

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Solicitation for Members of the NOAA Science Advisory Board

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Office of Oceanic and Atmospheric Research, Commerce.

**ACTION:** Notice of solicitation for members of the NOAA Science Advisory Board.

**SUMMARY:** NOAA is soliciting nominations for members of the NOAA Science Advisory Board (SAB). The SAB is the only Federal Advisory Committee with the responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB consists of 15 members reflecting the full breadth of NOAA's areas of responsibility and assists NOAA in maintaining a complete and accurate understanding of scientific issues critical to the agency's missions.

*Points of View:* The Board will consist of approximately fifteen members including a Chair, designated by the Under Secretary in accordance with FACA requirements.

Members will be appointed for three-year terms, renewable once, and serve at the discretion of the Under Secretary. 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 travel and per diem 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 the interests of geographic regions of the country and the diverse sectors of U.S. society.

The SAB meets in person three times each year, exclusive of teleconferences or subcommittee, task force, and working group meetings. Board members must be willing to serve as liaisons to SAB working groups and/or participate in periodic reviews of the NOAA Cooperative Institutes and overarching reviews of NOAA's research enterprise.

#### Nominations

Nominations may be made by individuals themselves or by a third party. Nominations by a third party should 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 four [4] pages) resume or curriculum vitae is recommended, but not required.

#### Applications

An application is required to be considered for Board membership, whether nominated by a third party or self-nominated. To apply, submit a current resume (maximum length four [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.

**DATES:** Nominations should be sent to the address specified and must be received by November 29, 2012.

**ADDRESSES:** Nominations and applications should be submitted electronically to *noaa.sab.newmembers@noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB Web site at *http://www.sab.noaa.gov.*

**SUPPLEMENTARY INFORMATION:** Individuals with expertise are sought in the specific areas of satellites and ground systems, high-performance computing and data systems, operational oceanography and/or meteorology, social sciences, and NOAA-relevant science and technology as applied in the Great Lakes region. Individuals with expertise in other areas relevant to NOAA goals and objectives are also welcome.

SAB activities and advice provide necessary input to ensure that NOAA science programs are of the highest quality and provide optimal support to NOAA's Mission Goals:

- Climate Adaptation and Mitigation.
- Weather-Ready Nation.
- Healthy Oceans.
- Resilient Coastal Communities and Economies.

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. 2012–26511 Filed 10–29–12; 8:45 am]

**BILLING CODE 3510–KD–P**

## COMMODITY FUTURES TRADING COMMISSION

### Financial Education Content Needs Survey

**AGENCY:** Commodity Futures Trading Commission, Office of Consumer Outreach.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on a proposed collection of information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment. The Commission's Office of Consumer Outreach would like to distribute a survey designed to collect data from employees at organizations that provide financial education information to their constituents. The information collected will assist the CFTC's Office of Consumer Outreach in determining how to provide its financial education content to these employees and organizations. This notice solicits comments on the reporting requirements that are part of the proposed survey.

**DATES:** Comments must be received on or before December 31, 2012.

**ADDRESSES:** You may submit comments, regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, by any of the following methods:

- *Agency Web site, via its Comments Online process: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Send to Sauntia Warfield, Assistant Secretary, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.
- *Hand delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov/search/index.jsp.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Nisha Smalls, Consumer Education & Outreach Specialist, 202–418–5000, *consumers@cftc.gov,* Office of Consumer Outreach, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:** Under the PRA, federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they collect or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) as ''the obtaining, causing to be obtained, soliciting * * * facts or opinions by or for any agency, regardless of form or format [from] ten or more persons.'' An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires federal agencies to provide a 60-day notice in the **Federal Register** for each proposed collection of information before submitting the collection to OMB for approval. Under OMB regulations, which implement provisions of the PRA, certain ''facts or opinions that are submitted in response to a general solicitation of comments from the public, published in the **Federal Register** or other publications,'' 5 CFR 1320.3(h)(4), or ''facts or opinions obtained or solicited at or in connection with public hearings or meetings,'' 5 CFR 1320.3(h)(8), are excluded from the OMB approval process. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 16, 2012 (77 FR 49428). The Commission received no comments on this collection of information.

In accordance with 7 U.S.C. 26, the CFTC is posing survey questions to the public. Questions included in the survey will inquire as to how often the respondents would like to receive content from CFTC, the format in which the respondents would like to receive information, and the topics the information should cover.

The Office of Consumer Outreach develops campaigns to change consumer behaviors, so that consumers can better avoid fraud as defined under the Commodities Exchange Act. The first campaign from the Office of Consumer Outreach involves utilizing government and non-profit agency distribution methods to provide anti-fraud information to consumers. This survey will assist the Office of Consumer Outreach in determining how the government and non-profit agencies would like to receive the anti-fraud information from the CFTC. The respondent burden for this collection is estimated to be 10 minutes per response. This estimate includes the time to prepare the written or electronic

[1] 17 CFR 145.9.

survey and transmit it to the Commission. The Commission estimates the average burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN HOURS

| | | | | | |
|---|---|---|---|---|---|
| 17 CFR ..... | Annual 500 ... | Frequency 1 response per respondent. | Hours per 10 minutes per response Cost is $0. | Total 500 ..... | 83.3 hours $0. |
| 17 CFR ..... | 500 ..... | At this time only one response is required. | 10 minutes ..... | 500 ..... | $0. |

Issued by the Commission this 25th day of October 2012.

**Sauntia S. Warfield,**

*Assistant Secretary of the Commission.*

[FR Doc. 2012–26625 Filed 10–29–12; 8:45 am]

**BILLING CODE 6351–01–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Federal Advisory Committee; Defense Health Board (DHB) Meeting

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, and in accordance with section 10(a)(2) of Public Law, a Defense Health Board (DHB) meeting is announced.

**DATES:**

**November 27, 2012**

8:00 a.m.–9:00 a.m. (Administrative Working Meeting)
9:00 a.m.–12:15 p.m. (Open Session)
12:15 p.m.–1:00 p.m. (Administrative Working Meeting)
1:00 p.m.–5:00 p.m. (Open Session)

**November 28, 2012**

8:00 a.m.–12:00 p.m. (Administrative Working Meeting)

**ADDRESSES:** Renaissance Arlington Capital View Hotel, 2800 South Potomac Avenue, Arlington, Virginia 22202.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine Bader, Director, Defense Health Board, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, (703) 681–6653, Fax: (703) 681–3317, *Christine.bader@tma.osd.mil.*

**SUPPLEMENTARY INFORMATION:** Additional information, including the agenda and electronic registration are available at the DHB Web site, *http://www.health.mil/dhb/default.cfm.* Anyone intending to attend is encouraged to register to ensure that adequate seating is available.

*Purpose of the Meeting:* The purpose of the meeting is to address and deliberate pending and new issues before the Board.

*Agenda:* On November 27, 2012, the Board will receive briefings regarding the following: Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury; DoD Suicide Prevention Office; psychological health issues facing DoD; North Atlantic Treaty Organization Medical Systems Collaboration; the United Kingdom Military Health System; and the Canadian Forces Health Services Group. In addition, the DHB will report on the progress of its ongoing review of the effects of the obesity epidemic on the department and its effort to capture lessons learned in trauma in theater for the Department. Finally, the DHB will vote on proposed recommendations regarding its review of the U.S. Army report, ''Categorizing Biological Agents In Post Mortem Risk Groups'' and Battlefield Research, Development, Test & Evaluation Priorities.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the DHB meeting on November 27, 2012 will be open to the public from 9:00 a.m. to 12:15 p.m. and 1:00 p.m. to 5:00 p.m. On November 28, 2012, the Board will be conducting an administrative working session.

*Written Statements:* Any member of the public wishing to provide comments to the DHB may do so in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice.

Individuals desiring to provide comments to the DHB may do so by submitting a written statement to the DHB Designated Federal Officer (DFO) (see **FOR FURTHER INFORMATION CONTACT**). Written statements should address the following details: the issue, discussion, and a recommended course of action. Supporting documentation may also be included, as needed, to establish the appropriate historical context and to provide any necessary background information.

If the written statement is not received at least 10 calendar days prior to the meeting, the DFO may choose to postpone consideration of the statement until the next open meeting.

The DFO will review all timely submissions with the DHB President and ensure they are provided to members of the DHB before the meeting that is subject to this notice. After reviewing the written comments, the Chairperson and the DFO may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future meeting. The DFO, in consultation with the DHB Chairperson, may allot time for members of the public to present their issues for review and discussion by the Defense Health Board.

*Special Accommodations:* If special accommodations are required to attend (sign language, wheelchair accessibility) please contact Ms. Elizabeth MacKenzie at (703) 681–8254 by Wednesday, November 14, 2012.

Dated: October 25, 2012.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2012–26653 Filed 10–29–12; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14447–000]**

### L.S. Starrett Company; Notice of Application Accepted for Filing With the Commission, Intent To Waive Scoping, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, Soliciting Comments, Terms and Conditions, and Recommendations, and Establishing An Expedited Schedule for Processing

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption from Licensing.

b. *Project No.:* P–14447–000.

c. *Date filed:* August 15, 2012.

d. *Applicant:* L.S. Starrett Company.

e. *Name of Project:* Crescent Street Dam Hydroelectric Project.

f. *Location:* On Millers River, in the Town of Athol, Worcester County, Massachusetts. The project would not occupy lands of the United States.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Steve Walsh, L.S. Starrett Company, 121 Crescent Street, Athol, MA 01331; (978) 249–3551 ext. 229.

i. *FERC Contact:* Tom Dean, (202) 502–6041, *thomas.dean@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, terms and conditions, and recommendations: Due to the small size and particular location of this existing project and the close coordination with state and federal agencies during the preparation of the application, the 60-day timeframe in 18 CFR 4.34(b) is shortened. Instead, motions to intervene and protests, comments, terms and conditions, and recommendations will be due 30 days from the issuance date of this notice. All reply comments must be filed with the Commission within 45 days from the date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The application has been accepted for filing and is now ready for environmental analysis.

l. The proposed Crescent Street Dam Hydroelectric Project consists of: (1) An existing 28-foot-high, 127-foot-long concrete and masonry dam with a 98-foot-long spillway topped with a 3-foot-high bascule gate; (2) an existing 4.5-acre impoundment with a normal water surface elevation of 541.3 feet National Geodetic Vertical Datum of 1929; (3) existing generation facilities on the right side of the dam that include: (a) an intake structure equipped with a 7-foot-high, 7-foot-wide head gate and a 14-foot-high, 17.5-feet-wide trashrack with 1.25-inch clear bar spacing; (b) a 25-foot-long, 7-foot-diameter penstock; (c) a 44-foot-long, 28-foot-wide powerhouse containing a 250 kilowatt (kW) turbine generating unit; (d) a 7-foot-diameter, 47-foot-long bypass outlet conduit equipped with a 7-foot-high, 7-foot-wide gate; (e) a 16-foot-wide, 4-foot-deep, 200-foot-long tailrace; and (f) three existing 180-foot-long, 600 volt transmission lines; (4) existing generation facilities on the left side of the dam that include: (a) an 18-foot-long weir equipped with a 6-foot-high, 6-foot-wide slide gate and a 12-foot-high, 13.5-foot-wide trashrack with ¾-inch clear bar spacing; (b) a 55-foot-long, 6-foot-diameter penstock; (c) a 37-foot-long, 37-foot-wide powerhouse containing a 198 kW turbine generating unit; (d) a 14-foot-wide, 9-foot-deep, 100-foot-long tailrace; and (e) six 900-foot-long, 600 volt transmission lines; and (5) appurtenant facilities. The project would have an estimated average annual generation of 1,729.2 megawatt-hours. The applicant proposes to construct downstream and upstream fish passage facilities, a plunge pool, and upstream eel passage facility if required by fish and wildlife agencies, and operate the project in a run-of-river mode.

m. Due to the project works already existing and the limited scope of proposed modifications to the project site described above, the applicant's close coordination with federal and state agencies during the preparation of the application, and agency recommended preliminary terms and conditions, we intend to waive scoping and expedite the exemption process. Based on a review of the application, resource agency consultation letters, Commission staff intends to prepare a single environmental assessment (EA). Commission staff determined that the issues that need to be addressed in the EA have been adequately identified during the pre-filing period, which included a public meeting and site visit, and no new issues are likely to be identified through additional scoping. The EA will consider assessing the potential effects of project construction and operation on aquatic, terrestrial, threatened and endangered species, recreation and land use, aesthetic, and cultural and historic resources.

n. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must: (1) Bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING

APPLICATION,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' or ''TERMS AND CONDITIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, or terms and conditions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. Procedural schedule: The application will be processed according to the following procedural schedule. Revisions to the schedule may be made as appropriate.

| Milestone | Target date |
|---|---|
| Notice of the availability of the EA. | March 2013 |

Dated: October 23, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–26591 Filed 10–29–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC13–18–000.
*Applicants:* Palouse Wind, LLC.
*Description:* Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, Shortened Comment Period and Expedited Action of Palouse Wind, LLC.
*Filed Date:* 10/19/12.
*Accession Number:* 20121019–5196.
*Comments Due:* 5 p.m. ET 11/9/12.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER13–20–001.
*Applicants:* C.N. Brown Electricity, LLC.
*Description:* Amended MBR Application to be effective 11/1/2012.
*Filed Date:* 10/22/12.
*Accession Number:* 20121022–5048.
*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–162–000.
*Applicants:* Arizona Public Service Company.
*Description:* Arizona Public Service Company submits cancellation of Service Schedule M, part of Rate Schedule No. 3.
*Filed Date:* 10/19/12.
*Accession Number:* 20121019–5198.
*Comments Due:* 5 p.m. ET 11/9/12.

*Docket Numbers:* ER13–163–000.
*Applicants:* Fountain Valley Power, L.L.C.
*Description:* Rate Schedule for Emergency Power to be effective 9/1/2012.
*Filed Date:* 10/22/12.
*Accession Number:* 20121022–5058.
*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–164–000.
*Applicants:* Midwest Independent Transmission System Operator, Inc.
*Description:* SA 1268 METC-Triton Letter Agreement to be effective 10/23/2012.
*Filed Date:* 10/22/12.
*Accession Number:* 20121022–5059.
*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–165–000.
*Applicants:* Southern California Edison Company.
*Description:* Letter Agreement SCE Mojave Solar 4 Project to be effective 10/10/2012.
*Filed Date:* 10/22/12.
*Accession Number:* 20121022–5067.
*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–166–000.
*Applicants:* New York Independent System Operator, Inc.
*Description:* NYISO Proposed Tariff Revisions re: Minimum Oil Burn Program to be effective 12/21/2012.
*Filed Date:* 10/22/12.
*Accession Number:* 20121022–5075.
*Comments Due:* 5 p.m. ET 11/13/12.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES13–2–000.
*Applicants:* Maine Public Service Company.
*Description:* Application of Maine Public Service Company Under Section 204 of the FPA for Authority to Extend Revolving Credit Facility.
*Filed Date:* 10/19/12.
*Accession Number:* 20121019–5199.
*Comments Due:* 5 p.m. ET 11/9/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 22, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–26719 Filed 10–29–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER07–771–006.
*Applicants:* Louisville Gas and Electric Company, Kentucky Utilities Company.
*Description:* Annual Schedule 2 True-Up Filing of Louisville Gas and Electric Company/Kentucky Utilities Company.
*Filed Date:* 10/23/12.
*Accession Number:* 20121023–5054.
*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–167–000.
*Applicants:* Caerus Energy, LLC.
*Description:* Caerus Energy, LLC Market Based Rate Tariff Application Filing to be effective 10/22/2012..
*Filed Date:* 10/22/12.
*Accession Number:* 20121022–5098.
*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–168–000.
*Applicants:* California Independent System Operator Corporation.
*Description:* 2012–10–22 Amendment No. 2 to Western-DSR IBAAOA to be effective 1/3/2013.
*Filed Date:* 10/22/12.
*Accession Number:* 20121022–5131.

*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–169–000.

*Applicants:* Midwest Independent Transmission System Operator, Inc.

*Description:* SA 2236 CapX-Fargo T–T to be effective 10/23/2012.

*Filed Date:* 10/22/12.

*Accession Number:* 20121022–5152.

*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–170–000.

*Applicants:* Midwest Independent Transmission System Operator, Inc.

*Description:* SA 2386 CapX Fargo Phase 3 to be effective 10/23/2012.

*Filed Date:* 10/22/12.

*Accession Number:* 20121022–5169.

*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–171–000.

*Applicants:* Midwest Independent Transmission System Operator, Inc.

*Description:* Carmel Data Center Amendment Filing to be effective 9/1/2012.

*Filed Date:* 10/23/12.

*Accession Number:* 20121023–5082.

*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–172–000.

*Applicants:* Midland Cogeneration Venture Limited Partnership.

*Description: Midland Cogeneration Venture Limited Partnership submits tariff filing per 35.13(a)(2)(iii: Midland Cogeneration Venture Limited Partnership Baseline MBR Tariff to be effective 9/22/2010.*

*Filed Date:* 10/23/12.

*Accession Number:* 20121023–5095.

*Comments Due:* 5 p.m. ET 11/13/12.

*Docket Numbers:* ER13–173–000.

*Applicants:* PSEG Fossil LLC.

*Description: PSEG Fossil LLC submits tariff filing per 35.1: Rate Schedules and Service Agreements Tariff to be effective 10/23/2012.*

*Filed Date:* 10/23/12.

*Accession Number:* 20121023–5096.

*Comments Due:* 5 p.m. ET 11/13/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 23, 2012.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2012–26720 Filed 10–29–12; 8:45 am]

**BILLING CODE 6717–01–P**

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Commissioner and Staff Attendance at North American Electric Reliability Corporation Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and/or Commission staff may attend the following meetings:

North American Electric Reliability Corporation
Member Representatives Committee and Board of Trustees Meetings
Board of Trustees Compliance Committee and Standards Oversight and Technology Committee Meetings
JW Marriott New Orleans Hotel 614 Canal Street New Orleans, La 70130.
Nov. 6 (7:00 a.m.–5:00 p.m.) and Nov. 7 (8:00 a.m.–1:00 p.m.), 2012

Further information regarding these meetings may be found at: *http://www.nerc.com/calendar.php.*

The discussions at the meetings, which are open to the public, may address matters at issue in the following Commission proceedings:

Docket No. RC08–5, North American Electric Reliability Corporation
Docket No. RC11–5, North American Electric Reliability Corporation
Docket No. RR08–4, North American Electric Reliability Corporation
Docket No. RR12–8, North American Electric Reliability Corporation
Docket No. RR12–10, North American Electric Reliability Corporation
Docket No. RR12–11, North American Electric Reliability Corporation
Docket No. RR12–12, North American Electric Reliability Corporation
Docket No. RR12–13, North American Electric Reliability Corporation
Docket No. RD09–11, North American Electric Reliability Corporation
Docket No. RD10–2, North American Electric Reliability Corporation
Docket No. RD12–3, North American Electric Reliability Corporation
Docket No. RD12–5, North American Electric Reliability Corporation
Docket No. RD12–6, North American Electric Reliability Corporation
Docket No. NP11–238, North American Electric Reliability Corporation

For further information, please contact Jonathan First, 202–502–8529, or *jonathan.first@ferc.gov.*

Dated: October 23, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–26594 Filed 10–29–12; 8:45 am]

**BILLING CODE 6717–01–P**

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EF13–1–000]**

### Southwestern Power Administration; Notice of Filing

Take notice that on October 18, 2012, the Deputy Secretary of the Department of Energy, pursuant to the authority vested by sections 301(b), 302(a), 402(e), 641, 642, 643, and 644, of the Department of Energy Organization Act (Pub. L. 95–91), and by Delegation Order Nos. 00–037.00 (December 6, 2001) and 00–001.00D (January 22, 2010), confirmed, approved, and placed in effect on an interim basis in Rate Order SWPA–64, Southwestern Power Administration annual rate for the sale of power and energy from the Willis Project to the Sam Rayburn Municipal Power Agency.

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 23, 2012.

Dated: October 23, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–26593 Filed 10–29–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP13–4–000]**

### Gulf South Pipeline Company, L.P.; Notice of Request Under Blanket Authorization

Take notice that on October 11, 2012, Gulf South Pipeline Company, L.P. (Gulf South), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, pursuant to the blanket certificate issued to Gulf South's predecessor in Docket No. CP82–430–000,[1] filed an application in accordance to sections 157.205(b), 157.208(c), and 157(213) of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to construct, own, operate, and maintain a horizontal injection and withdrawal well at Gulf South's Bistineau Storage Facility located in Bienville Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Bistineau Storage Facility is a converted gas producing reservoir and many of the original producing wells were converted to storage service by Gulf South in the late 1960's. Some of the existing well bores are over 50 years old and have begun to deteriorate either mechanically or operationally. Gulf South proposed to construct a new horizontal well to replace one or more of the existing vertical wells, which will be Gulf South D–21H drilled near the end of the D-lateral in Bienville Parish, Louisiana. Gulf South also proposes to construct approximately 0.06 miles of associated 8-inch lateral and appurtenant facilities. The proposed facilities will be used as an injection and withdrawal well. The project will not alter the Bistineau Storage Facility's total inventory, working gas/cushion gas ratio, reservoir pressure, reservoir or buffer boundaries, or certificated capacities, including injection and withdrawal capacity. The estimated cost of the proposed project is $3,500,000.

Any questions concerning this application may be directed to J. Kyle Stephens, Gulf South Pipeline Company, L.P., 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, (713) 479–8033, or email at *kyle.stephens@bwpmlp.com.*

This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866) 206–3676, or, for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Dated: October 23, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–26592 Filed 10–29–12; 8:45 am]

**BILLING CODE 6717–01–P**

[1] *United Gas Pipe Line, Co.,* 20 FERC ¶ 62,416 (1982).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meetings related to the interregional transmission planning activities of the Southwest Power Pool (SPP):

SPP Seams FERC Order 1000 Task Force Meeting—November 2, 2012.

The above-referenced meeting will be a teleconference.

The above-referenced meeting is open to the public.

Further information may be found at *www.spp.org.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER09–35–001, *Tallgrass Transmission, LLC*

Docket No. ER09–36–001, *Prairie Wind Transmission, LLC*

Docket No. ER09–548–001, *ITC Great Plains, LLC*

Docket No. ER09–659–002, *Southwest Power Pool, Inc.*

Docket No. ER11–4105–000, *Southwest Power Pool, Inc.*

Docket No. EL11–34–001, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–1401–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1402–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1415–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1460–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1586–000 et al., *Southwest Power Pool, Inc.*

Docket No. ER12–1610–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1772–000, *Southwest Power Pool, Inc.*

Docket No. ER12–2366–000, *Southwest Power Pool, Inc.*

Docket No. EL12–2–000, *Southwest Power Pool, Inc.*

Docket No. EL12–60–000, *Southwest Power Pool, Inc., et al.*

Docket No. ER12–2387–000 et al., *Southwest Power Pool, Inc.*

For more information, contact Luciano Lima, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (202) 288–6738 or *Luciano.Lima@ferc.gov.*

Dated: October 23, 2012.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2012–26595 Filed 10–29–12; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Boulder Canyon Project—Post-2017 Resource Pool

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of proposed marketing criteria.

**SUMMARY:** The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), is seeking comments on proposed marketing criteria for allocating the Federal power from the Boulder Canyon Project (BCP). The Conformed Power Marketing Criteria or Regulations for the Boulder Canyon Project (2012 Conformed Criteria) published in the **Federal Register** on June 14, 2012, as required by the Hoover Power Allocation Act of 2011, established a resource pool (Post-2017 Resource Pool) to be allocated to new allottees and general eligibility criteria. Western is proposing for comment additional marketing criteria to be used to allocate the Post-2017 Resource Pool that will become available October 1, 2017. Once determined, these marketing criteria, in conjunction with the 2012 Conformed Criteria, will establish the framework for allocating power from the Post-2017 Resource Pool. This **Federal Register** notice (FRN) is not a call for applications. A call for applications from those interested in an allocation of BCP power will occur in a future notice.

**DATES:** Entities interested in commenting on proposed marketing criteria must submit written comments to Western's Desert Southwest Customer Service Regional Office at the address below. Western will accept written comments received on or before January 11, 2013. Western reserves the right to not consider any comments received after this date.

Western will hold three public information forums on the proposed marketing criteria. The dates for the public information forums are:

1. November 27, 2012, 1 p.m., PST, Las Vegas, Nevada.
2. November 28, 2012, 1 p.m., MST, Phoenix, Arizona.
3. November 29, 2012, 10 a.m., PST, Ontario, California.

Following the public information forums, Western will hold three public comment forums. The dates for the public comment forums are:

1. December 18, 2012, 1 p.m., PST, Las Vegas, Nevada.
2. December 19, 2012, 10 a.m., PST, Ontario, California.
3. December 20, 2012, 10 a.m., MST, Phoenix, Arizona.

**ADDRESSES:** Written comments regarding these proposed marketing criteria should be sent to: Mr. Darrick Moe, Desert Southwest Regional Manager, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457. Comments may also be faxed to (602) 605–2490 or emailed to *Post2017BCP@wapa.gov.*

The public information and public comment forums will be held at: The New Las Vegas Tropicana, 3801 Las Vegas Boulevard South, Las Vegas, Nevada; Fiesta Resort Conference Center, 2100 S. Priest Drive, Tempe, Arizona; DoubleTree Ontario Airport, 222 N. Vineyard, Ontario, California.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Simonton, Public Utilities Specialist, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, telephone number (602) 605–2675, email *Post2017BCP@wapa.gov.* All comments received in response to this FRN will be posted to Western's Web site at *http://www.wapa.gov/dsw/pwrmkt.*

**SUPPLEMENTARY INFORMATION:** The BCP was authorized by the Boulder Canyon Project Act of 1928 (Act) (43 U.S.C. 617). Under Section 5 of the Act, the Secretary of the Interior marketed the capacity and energy from the BCP under electric service contracts effective through May 31, 1987. In 1977 the power marketing functions of the Secretary of Interior were transferred to Western by Section 302 of the Department of Energy Organization Act (42 U.S.C. 7152). Thereafter, on December 28, 1984, Western published the Conformed General Consolidated Criteria or Regulations for Boulder City Area Projects (1984 Conformed Criteria) (49 FR 50582) to implement applicable provisions of the Hoover Power Plant Act of 1984 (43 U.S.C. 619) for the marketing of BCP power through September 30, 2017.

On December 20, 2011, Congress enacted the Hoover Power Allocation Act of 2011 (Pub. L. 112–72) (HPAA), which provides direction and guidance in marketing BCP power after the existing contracts expire September 30, 2017. On June 14, 2012, Western published the 2012 Conformed Criteria (77 FR 35671) to implement applicable provisions of the HPAA for the marketing of BCP power from October 1, 2017 through September 30, 2067. The 2012 Conformed Criteria formally established a resource pool defined as ''Schedule D'' to be allocated to new allottees. In accordance with the HPAA, Western allocated portions of Schedule D to the Arizona Power Authority (APA) and the Colorado River Commission of Nevada (CRC), respectively, as described in the June 14, 2012, FRN. Of the remaining portions of Schedule D, Western is to allocate 11,510 kilowatts (kW) of contingent capacity and associated firm energy to new allottees within the State of California, and 69,170 kW of contingent capacity and associated firm energy to new allottees within the Boulder City Area marketing area.

**Proposed Post-2017 Resource Pool Marketing Criteria**

Western proposes to apply the following general marketing criteria to applicants seeking an allocation of power from the Post-2017 Resource Pool. This includes all prescribed portions of Schedule D power to be allocated by Western as described above.

A. Allocations of power will be made in amounts determined solely by Western in exercise of its discretion under Reclamation Law, including the HPAA.

B. An allottee may purchase power only upon the execution of an electric service contract and satisfaction of all conditions stated within that contract.

C. Eligible applicants, except Native American tribes, must be ready, willing, and able to receive and distribute or use power from Western. Ready, willing, and able means the eligible applicant has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service, and its power supply contracts with third parties permit the delivery of Western's power. Eligible applicants must have the necessary arrangements for transmission and/or distribution service in place by October 1, 2016.

D. An eligible Native American applicant must be an Indian tribe as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 450b, as amended.

E. In determining allocations, Western will give priority consideration in the following order to entities satisfying these marketing criteria:

1. Federally recognized Native American tribes.

2. Municipal corporations and political subdivisions including irrigation or other districts, municipalities, and other governmental organizations; that have electric utility status by April 1, 2014. ''Electric utility status'' means that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis.

3. Electric cooperatives and public utilities other than electric utilities that are recognized as utilities by their applicable legal authorities, are nonprofit in nature, have electrical facilities, and are independently governed and financed.

4. Other eligible applicants.

F. In determining allocations, Western will consider existing Federal power resource allocations of the applicants.

G. Western will base allocations to Native American tribes on actual loads experienced in the most recent calendar year. Western may use estimated load values if actual load data is not available. Western will evaluate and may adjust inconsistent estimates during the allocation process. Western is available to assist tribes in developing load estimates.

H. Western will base allocations to eligible applicants on the actual loads experienced in the most recent calendar year and will apply current marketing criteria to these loads.

I. The minimum allocation will be 1,000 kW. Applicants will be allowed to aggregate their loads to meet minimum requirements provided Western is able to schedule power deliveries in quantities of 1,000 kW or greater to the aggregated group. Western will consider making allocations under the 1,000 kW minimum conditioned upon an applicant's ability to aggregate to 1,000 kW or greater for scheduling purposes prior to final allocation determinations.

J. Applicants seeking an allocation as an aggregated group must demonstrate to Western's satisfaction the existence of a contractual aggregation arrangement prior to final allocation determinations. Each member of an aggregated group must meet all eligibility requirements.

K. Contractors must execute electric service contracts within six months of receiving a contract offer from Western, unless Western agrees otherwise in writing.

L. If unanticipated obstacles to the delivery of electric service to a Native American tribe arise, Western retains the right to provide the economic benefit of the resource directly to the tribe.

**Regulatory Procedure Requirements**

*Determination Under Executive Order 12866*

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

*Environmental Compliance*

In accordance with the DOE National Environmental Policy Act Implementing Procedures (10 CFR part 1021), Western has determined that these actions fit within a class of action B4.1 Contracts, policies, and marketing and allocation plans for electric power, in Appendix B to Subpart D to Part 1021—Categorical Exclusions Applicable to Specific Agency Actions.

Dated: October 22, 2012.

**Anita J. Decker,**

*Acting Administrator.*

[FR Doc. 2012–26685 Filed 10–29–12; 8:45 am]

BILLING CODE 6450–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2011–0966; FRL–9523–7]**

## Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Tier 1 Screening of Certain Chemicals Under the Endocrine Disruptor Screening Program (EDSP) (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

**DATES:** Additional comments may be submitted on or before November 29, 2012.

**ADDRESSES:** Submit your comments, referencing Docket identification (ID) number (No.) EPA–HQ–OPPT–2011–0966, to (1) EPA online using *www.regulations.gov* (our preferred method) or by mail to: Pollution Prevention and Toxics Docket, Environmental Protection Agency Docket Center (EPA/DC), Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** William Wooge, (7203M), Office of Science Coordination and Policy (OSCP), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8476; fax number: (202) 564–8482; email address: *wooge.william@epa.gov.*

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On August 9, 2012 (77 FR 47640), EPA sought comments on this renewal pursuant to 5 CFR 1320.8(d), and the ICR submitted to OMB includes EPA's responses to the four comments that were received. Any additional comments on the revised ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA EPA–HQ–OPPT–2011–0966, which is available online at *http://www.regulations.gov,* or in person at the OPPT Docket in the EPA/DC, EPA West Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the OPPT Docket is 202–566–0280. Use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified for this ICR. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the docket, go to *www.regulations.gov.*

*Title:* Tier 1 Screening of Certain Chemicals Under the Endocrine Disruptor Screening Program (EDSP) (Renewal).

*ICR Numbers:* EPA ICR No. 2249.03, OMB Control No. 2070–0176.

*ICR Status:* This is a request to renew an existing approved collection. This ICR is scheduled to expire on October 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

*Abstract:* This is a renewal of an existing ICR covering the information collection activities associated with Tier 1 screening of chemicals under EPA's EDSP. The EDSP is established under section 408(p) of the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 346a(p)), which requires EPA to develop a chemical screening program using appropriate validated test systems and other scientifically relevant information to determine whether certain substances may have hormonal effects. The EDSP consists of a two-tiered approach to screen chemicals for potential endocrine disrupting effects. The purpose of Tier 1 screening is to identify substances that have the potential to interact with the estrogen, androgen, or thyroid hormone systems using a battery of assays. Substances that have the potential to interact with estrogen, androgen or thyroid systems may proceed to Tier 2, which is designed to identify any adverse endocrine-related effects caused by the substance, and establish a quantitative relationship between the dose and that endocrine effect. Additional information about the EDSP is available at *http://www.epa.gov/endo.*

This ICR addresses the information collection activities for the initial list of chemicals screened under Tier 1 of the EDSP, and covers the full range of information collection activities associated with the issuance of and response to Tier 1 EDSP orders issued by EPA. The initial list was established in 2009, and consists of 67 pesticide active ingredients (PAIs) and pesticide inerts. As the renewal of an ongoing information collection activity approved under the PRA, this ICR addresses the paperwork burden associated with the continuation of the activities over the next three years. As such, the paperwork burdens are adjusted to reflect the planned progression associated with the information collection activities covered by the ICR. In addition, EPA has restructured the ICR to incorporate a presentation of the activities and related burden in a way that would match what is used in the ICR submission system.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 204 and 4,919 hours per response. Burden is defined in 5 CFR 1320.3(b).

*Respondents/Affected Entities:* Entities potentially affected by this ICR are those that receive an EDSP test order issued by the Agency. Under FFDCA section 408(p)(5)(A), EPA ''shall issue'' EDSP test orders ''to a registrant of a substance for which testing is required * * * or to a person who manufactures or imports a substance for which testing is required.''

*Frequency of Collection:* On occasion.

*Estimated No. of Respondents:* 385.

*Estimated Total Annualized Burden:* 98,414 hours.

*Estimated Total Annualized Cost:* $6,301,807.

*Changes in Burden Estimates:* There is a decrease of 63,011 hours in the total estimated annualized burden compared with that currently approved by OMB (i.e., from 161,415 hours to 98,404 hours). This is an adjustment that reflects the planned progression of the collection activities associated with the initial chemicals to be screened under Tier 1 of the EDSP.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2012–26611 Filed 10–29–12; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2011–0858; FRL]**

## Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; EPA's Design for the Environment (DfE) Partner of the Year Awards Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: EPA's Design for the Environment (DfE) Partner of the Year Awards Program; EPA ICR No. 2450.01, OMB No. 2070–NEW. The ICR, which is abstracted below, describes the nature of the information collection activity and its expected burden and costs.

**DATES:** Additional comments may be submitted on or before November 29, 2012.

**ADDRESSES:** Submit your comments, referencing docket ID Number EPA–HQ–OPPT–2011–0858 to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Pamela Myrick, Deputy Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mail code: 7408–M, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.10. On January 13, 2012 (77 FR 2058), EPA sought comments on this proposed information collection pursuant to 5 CFR 1320.8(d). EPA received one supportive comment during the comment period. Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA EPA–HQ–OPPT–2011–0858, which is available for online viewing at *www.regulations.gov,* or in person inspection at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Pollution Prevention and Toxics Docket is 202–566–0280. Use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the public docket, and to access those

documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in *www.regulations.gov.* The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in *www.regulations.gov.* For further information about the electronic docket, go to *www.regulations.gov.*

*Title:* EPA's Design for the Environment (DfE) Partner of the Year Awards Program.

*ICR Status:* This is a request to establish a new information collection activity.

*Abstract:* EPA has developed the Partner of the Year Awards to recognize DfE stakeholders who have furthered the goals of DfE through active and exemplary participation in and promotion of the DfE program. Making DfE's mission known to the widest possible audience, through its safer product label and in other forms of communication, is critical to fully realizing the program's goals of protecting human health and the environment, promoting a sustainable economy, and creating green jobs, especially in the small business sector.

The Partner of the Year Awards will be an annual event, with recognition for DfE stakeholder organizations from five broad categories: (1) Formulators/product manufacturers (of both consumer and institutional/industrial (I/I) products), (2) purchasers and distributors, (3) retailers, (4) influencers (e.g., non-governmental organizations, including environmental and health advocates, trade associations, academia, sports teams, and others), and (5) innovators (e.g., chemical manufacturers, technology developers, and others). Within these categories and based on the criteria, DfE may elect to give additional awards in the subcategories of ''small business'' and ''sustained excellence.'' This information collection activity addresses the reporting burden associated with making application to EPA for recognition in the Partner of the Year Awards program.

Responses to this information collection are voluntary. Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average about 15 hours per response. Burden is defined in 5 CFR 1320.3(b).

*Respondents/Affected Entities:* Entities potentially affected by this action are establishments engaged in the production, use, and/or advancement of safer chemicals, that have furthered the goals of DfE through active and exemplary participation in and promotion of the program, and that wish to receive recognition for their achievements.

*Frequency of Collection:* On occasion.

*Estimated average number of responses for each respondent:* 1.

*Estimated No. of Respondents:* 110.

*Estimated Total Annual Burden on Respondents:* 1,650 hours.

*Estimated Total Annual Costs:* $69,790.

*Changes in Burden Estimates:* Since this is a new ICR, change in respondent burden is not applicable.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2012–26612 Filed 10–29–12; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9747–8]**

## Proposed Consent Decree, Clean Air Act Citizen Suit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended (''CAA''), notice is hereby given of a proposed consent decree, to address a lawsuit filed by Sierra Club in the United States District Court for the District of Columbia: *Sierra Club* v. *Jackson,* No. 1: 12–cv–00705 (CKK). On May 2, 2012, the Plaintiff filed a First Amended Complaint alleging that EPA failed to perform nondiscretionary duties under the Clean Air Act. Specifically, the Plaintiff alleged that EPA failed to take timely action to approve, disapprove, or approve in part and disapprove in part, pursuant to CAA, the state implementation plan (''SIP'') submission made by Oklahoma on July 16, 2010, that is captioned ''Excess Emissions Reporting Requirements'' (referred to herein as ''OK SIP''). The proposed consent decree establishes deadlines for EPA to take proposed and final action on the OK SIP. The proposed consent decree also provides that once EPA has completed the actions specified in the decree the case will be dismissed with prejudice.

**DATES:** Written comments on the proposed consent decree must be received by *November 29, 2012.*

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA–HQ–OGC–2012–0824, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Kaytrue Ting, Air and Radiation Law Office (2344A), Office of General

Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–6380; fax number (202) 564–5601; email address: *ting.kaytrue@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by the Sierra Club seeking to compel the Administrator to take final action under sections 110(k)(2) and (3) of the CAA, 42 U.S.C. 7410(k)(2) and (3), on a SIP submission made by Oklahoma on July 16, 2010, regarding Excess Emissions Reporting Requirements. The proposed consent decree requires EPA to sign for publication in the **Federal Register** a notice of proposed rulemaking to act on the OK SIP no later than May 31, 2013, and requires EPA to sign for publication in the **Federal Register** a notice of final rulemaking acting on the OK SIP no later than January 31, 2014. Following signature of the proposed and final rule described in the proposed consent decree, EPA is required to send the notice to the Office of the Federal Register within fifteen business days for review and publication in the **Federal Register**. The proposed consent decree also states that after EPA fulfills its obligations under the consent decree, this case shall be dismissed with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

## II. Additional Information About Commenting on the Proposed Consent Decree

### *A. How can I get a copy of the consent decree?*

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2012–0824) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use the *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

### *B. How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: October 23, 2012.

**Lorie J. Schmidt,**

*Associate General Counsel.*

[FR Doc. 2012–26656 Filed 10–29–12; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9747–4]**

## Senior Executive Service Performance Review Board; Membership

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the membership of the U.S. Environmental Protection Agency Performance Review Board for 2012.

**FOR FURTHER INFORMATION CONTACT:** Karen D. Higginbotham, Director, Executive Resources Division, 3606A, Office of Human Resources, Office of Administration and Resources Management, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 564–7287.

**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 boards. This board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointment authority relative to the performance of the senior executive.

Members of the 2012 EPA Performance Review Board are:

Benita Best-Wong, Deputy Director, Office of Wetlands, Oceans and Watersheds, Office of Water;
Bruce Binder, Senior Associate Director for Grants Competition, Office of Grants and Debarment, Office of Administration and Resources Management;
David Bloom, Director, Office of Budget, Office of the Chief Financial Officer;
Barry N. Breen, Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response;
Jeanette Brown, Director, Office of Small Business Programs, Office of the Administrator;
Dennis Bushta, Deputy Director, Office of Administration, Office of Administration and Resources Management;
Rafael DeLeon (Ex-Officio), Director, Office of Civil Rights, Office of the Administrator;
Sarah Dunham, Director, Office of Atmospheric Programs, Office of Air and Radiation;
James Giattina, Director, Water Management Division, Region 4;
Robin Gonzalez, Director, Enterprise IT Systems, Office of Environmental Information;
Sally Gutierrez, Director, Environmental Technology Innovation Cluster Program, Office of Research and Development;
Joan Harrigan-Farrelly, Director, Antimicrobials Division, Office of Chemical Safety and Pollution Prevention;
Karen D. Higginbotham (Ex-Officio), Director, Executive Resources Division, Office of Human Resources, Office of Administration and Resources Management;
Peter Jutro, Senior Scientist, National Homeland Security Research Center, Office of Research and Development;
Susan Kantrowitz (Ex-Officio), Director, Office of Human Resources, Office of Administration and Resources Management;
Brenda Mallory, Principal Deputy General Counsel, Office of General Counsel;
Suzanne Murray, Regional Counsel, Region 6, Office of Enforcement and Compliance Assurance;
George Pavlou, Deputy Regional Administrator, Region 2;
Cynthia Sonich-Mullin, Director, National Risk Management Research Laboratory, Cincinnati;
Michael M. Stahl, Deputy Assistant Administrator, Office of International and Tribal Affairs; and
Alexis Strauss-Hacker, Deputy Regional Administrator, Region 9.

Dated: October 23, 2012.

**Craig E. Hooks,**

*Assistant Administrator, Administration and Resources Management.*

[FR Doc. 2012–26655 Filed 10–29–12; 8:45 am]

BILLING CODE 6560–50–P

## EXPORT-IMPORT BANK OF THE UNITED STATES

### Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application for a $14 million loan guarantee to support the export of approximately $13 million worth of gas turbine generator set and services to Russia. The U.S. exports will enable the Russian company to produce approximately 475,000 cubic meters of medium density fiberboard per year. Available information indicates that the majority of this new medium density fiberboard production will be sold in Russia with the remainder sold in the Ukraine and other CIS countries. Interested parties may submit comments on this transaction by email to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue NW., Room 442, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**, inclusive of the date of this notification.

**Kathryn Hoff-Patrinos,**

*Deputy General Counsel.*

[FR Doc. 2012–26614 Filed 10–29–12; 8:45 am]

BILLING CODE 6690–01–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Update Listing of Financial Institutions in Liquidation.

**SUMMARY:** Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: October 22, 2012.

Federal Deposit Insurance Corporation.

**Pamela Johnson,**

*Regulatory Editing Specialist.*

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

| FDIC Ref. No. | Bank name | City | State | Date closed |
|---|---|---|---|---|
| 10460 | Excel Bank | Sedalia | MO | 10/19/2012 |
| 10461 | First East Side Savings Bank | Tamarac | FL | 10/19/2012 |
| 10462 | GulfSouth Private Bank | Destin | FL | 10/19/2012 |

[FR Doc. 2012–26608 Filed 10–29–12; 8:45 am]

BILLING CODE 6714–01–P

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting Notice

**AGENCY:** Federal Election Commission.

**DATE AND TIME:** Thursday, November 1, 2012 AT 10:00 a.m.

**PLACE:** 999 E Street NW., Washington, DC (Ninth Floor)

**STATUS:** This Meeting Will Be Open to the Public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of the Minutes for the Meeting of October 18, 2012

Request for Reconsideration of Advisory Opinion 2012–25: American Future Fund, American Future Fund Political Action, McIntosh

Draft Advisory Opinion 2012–34: Freedom PAC and Friends of Mike H

Audit Division Recommendation Memorandum on Rightmarch.com PAC, Inc. (A09–25)

Audit Division Recommendation Memorandum on the Maine Republican Party (MRP) (A09–09)

Management and Administrative Matters.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

**PERSON TO CONTACT FOR INFORMATION:** Judith Ingram, Press Officer, Telephone: (202) 694–1220.

**Shawn Woodhead Werth,**

*Secretary and Clerk of the Commission.*

[FR Doc. 2012–26710 Filed 10–26–12; 11:15 am]

BILLING CODE 6715–01–P

## FEDERAL HOUSING FINANCE AGENCY

**[No. 2012–N–16]**

### Submission for OMB Review; Comment Request

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** 30-Day notice of submission of information collection for approval from the Office of Management and Budget.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Agency (FHFA) is submitting the information collection entitled ''Community Support Requirements'' to the Office of Management and Budget (OMB) for review and approval of a three-year extension of the OMB control number 2590–0005 which is due to expire on October 31, 2012.

**DATES:** Interested persons may submit comments on or before November 29, 2012.

**ADDRESSES:** Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: (202)–395–6974, Email address: *OIRA_Submission@omb.eop.gov,* and also send a copy to FHFA using any of the following methods:

- *Email: RegComments@fhfa.gov.* Please include Proposed Collection; Comment Request: Community Support Requirements (No. 2012–N–16) in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, 400 Seventh Street SW., Eighth Floor, Washington, DC 20024, ATTENTION: Public Comments/Submission for OMB Approval: Community Support Requirements (No. 2012–N–16).

We will post all public comments we receive without change, including any personal information you provide, such as your name, address (mailing and email), and telephone number on the FHFA Web site at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, 400 Seventh St. SW., Eighth Floor, Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

*For Further Information or Copies of the Information Collection Contact:* Sylvia C. Martinez, Management Advisor, Division of Bank Regulation (DBR), Federal Housing Finance Agency, by telephone at (202) 649–3301 (not a toll-free number), or by electronic mail at *Sylvia.Martinez@fhfa.gov.* The telephone number for the Telecommunications Device for the Hearing Impaired is 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**A. Need for and Use of the Information Collection**

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires FHFA to promulgate regulations establishing standards of community investment or service that Federal Home Loan Bank (Bank) member institutions must meet in order to maintain access to long-term advances. Section 10(g)(2) of the Bank Act requires that, in establishing these community support requirements for Bank members, FHFA take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA) and record of lending to first-time homebuyers.

Part 1290 of FHFA's regulations implements the statutory requirements by providing uniform community support standards that all Bank members must meet, as well as review criteria that FHFA staff must apply to determine compliance with section 10(g) of the Bank Act. Section 1290.2 of the regulations requires that each Bank member submit to FHFA biennially a completed Community Support Statement (Form 60), which contains several short questions the answers to which are used by FHFA to assess the responding member's compliance with the CRA and first time homebuyer performance standards. In section I of the form, a member that is subject to the CRA must record its current CRA rating and the date of its most recent CRA evaluation. Section II of the form addresses a member's efforts to assist first time homebuyers—a member may either record the amount of loans made to first time homebuyers (in dollars and as a percentage of total mortgage loans) in the previous year, indicate the types of programs it has undertaken to assist first time home buyers (by checking selections from a list) or do both. If a member has received a CRA rating of ''outstanding,'' it need not complete section II of the form. A copy of Form 60 is available at *http://www.fhfa.gov/webfiles/2924/FHFAForm060.pdf.*

Section 1290.5 describes the circumstances under which FHFA will restrict a member's access to long-term Bank advances for failure to meet the community support requirements. It also permits Bank members whose access to long-term advances has been restricted to apply directly to FHFA to remove the restriction under certain circumstances.

The information collection contained in Form 60 and part 1290 are necessary to enable and are used by FHFA to determine whether Bank members satisfy the statutory and regulatory

community support requirements. Only Bank members that meet these requirements may maintain continued access to long-term Bank advances. *See* 12 U.S.C. 1430(g).

The OMB number for the information collection is 2590–0005. The OMB clearance for the information collection expires on October 31, 2012. The likely respondents are institutions that are Bank members.

**B. Burden Estimate**

The FHFA estimates the total annual average number of respondents that must complete Form 60 at 3,900 Bank members (half of all Bank members each year), with one response per member and an average burden per response of one hour. In addition, FHFA estimates the total annual average number of Bank members whose access to long-term advances has been restricted that will apply to FHFA to remove the restriction at 14 Bank members, with one response per member and an average burden per response of one hour. Thus, the estimate for the total annual hour burden is 3,914 hours.

**C. Comment Request**

In accordance with 5 CFR 1320.8(d), FHFA published a request for public comments regarding this information collection in the **Federal Register** on August 3, 2012. *See* 77 FR 46436. The 60-day comment period closed on October 2, 2012. FHFA received no public comments.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of the FHFA estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility and clarity of the information collected; and (4) ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Dated: October 23, 2012.

**Kevin Winkler,**

*Chief Information Officer, Federal Housing Finance Agency.*

[FR Doc. 2012–26617 Filed 10–29–12; 8:45 am]

**BILLING CODE 8070–01–P**

## FEDERAL HOUSING FINANCE AGENCY

**[No. 2012–N–15]**

## Proposed Collection; Comment Request

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** 30-Day notice of submission of information collection for approval from the Office of Management and Budget.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Agency (FHFA) is submitting the information collection known as ''Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances,'' to the Office of Management and Budget (OMB) for review and approval of a three-year extension of the control number 2590–0008 which is due to expire on October 31, 2012.

**DATES:** Interested persons may submit comments on or before November 29, 2012.

**ADDRESSES:** Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: (202) 395–6974, Email address: *OIRA_Submission@omb.eop.gov*, and to FHFA using any one of the following methods:

- *Email: RegComments@fhfa.gov.* please include Proposed Collection; Comment Request: Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances (No. 2012–N–15) in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, 400 Seventh Street SW., Eighth Floor, Washington, DC 20024, ATTENTION: Public Comments/Proposed Collection; Comment Request: Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances (No. 2012–N–15).

We will post all public comments we receive without change, including any personal information you provide, such as your name, address (mailing and email), and telephone number on the FHFA Web site at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, 400 Seventh Street SW., Eighth Floor, Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

**FOR FURTHER INFORMATION CONTACT:** Rajkumar Thangavelu, Financial Database Specialist at 202–649–3943 (not a toll-free number), *Rajkumar.Thangavelu@fhfa.gov.* The telephone number for the Telecommunications Device for the Deaf is 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**A. Need For and Use of the Information Collection**

The Federal Home Loan Banks (Banks) are authorized under 12 CFR part 955 to acquire from their member financial institutions and non-member housing associates certain home mortgage loans and related assets, which are referred to as ''Acquired Member Assets'' or ''AMA.'' In conjunction with this authority, each Bank that acquires AMA is required by regulation to report to FHFA certain data regarding each loan acquired, as specified in FHFA's Data Reporting Manual (DRM). The DRM specifies 87 data elements that must be reported semi-annually for each new loan acquired, as well as 22 additional data elements that must be reported semi-annually for existing AMA loans or loan participations held in the Bank's portfolio. The DRM also requires that the Banks report aggregated AMA loan data on a quarterly basis. FHFA uses the collected loan-level and aggregated AMA data to monitor the safety and soundness of the Banks and the extent to which the Banks are fulfilling their statutory housing finance mission through their AMA programs.[1]

Since 2010, FHFA has also published the previous calendar year's loan-level AMA data in an online public use database.[2] The agency maintains this public use database in order to fulfill its duties under section 10(k) of the Federal Home Loan Bank Act (Bank Act), which requires that the Banks report to FHFA specified census tract-level data relating to purchased mortgages and that the agency make this data available to the public in a useful form.[3] At the time that Congress enacted section 10(k) in 2008, the Banks were already reporting most

[1] FHFA is responsible for supervising the safety and soundness of the Banks, as well as the fulfillment of the Banks' statutory housing finance mission. See 12 U.S.C. 4513(a)(1).

[2] This public use database is accessible at *http://www.fhfa.gov/Default.aspx?Page=304.*

[3] *See* 12 U.S.C. 1430(k).

of the data referenced in that provision pursuant to the existing requirements of part 955 and the DRM. In order to implement fully the new statutory requirements, FHFA amended the DRM in September 2009 to require the Banks to report to FHFA six additional data elements relating to newly-acquired AMA loans (in addition to then-existing 81 data elements) beginning in February 2010.

While each Bank that acquires or holds AMA loans must report both loan-level and aggregated AMA data directly to FHFA, the Bank initially must collect some of the underlying loan-level data from the member institution or housing associate from which the Bank acquires the loan (this is usually, but not always, the originator of the loan). The Bank typically collects the data for a particular AMA loan from the seller at the time the Bank agrees to acquire the loan. The Bank then uses this loan-level data to derive many of the other data elements that it is required to report to FHFA. For example, from the address of the property that secures the loan, a Bank is able to determine from publicly-available information the census tract code (and other similar geographic codes) for the property, as well as the median family income, and other data regarding the census tract or other defined geographic area. With this additional information, the Bank is also able to calculate various ratios, such as the ratio of the borrower's income to the area median family income, which it is required to report under the DRM. Finally, some of the loan-level data originates with the Bank itself, such as the name of the acquiring Bank, the unique loan number assigned to the acquired loan, and the AMA program under which the loan was acquired.

All but 8 to 10 of the data elements provided by the seller to the acquiring Bank are information that any purchaser of mortgage loans would require a seller to furnish in the ordinary course of business, even in the absence of any statutory or regulatory requirements. For example, the Bank must report, and the seller must therefore initially provide, data on: the location and type of the residential property securing the loan; the annual income and the debt-to-income ratio of the borrower and any co-borrowers; and the unpaid principal balance, term-to-maturity, interest rate, and type (*i.e.,* fixed- or adjustable-rate) of the loan. The remaining data that would not normally be exchanged in the ordinary course of business comprises information identifying the race, ethnicity, and gender of the borrower and any co-borrowers, which are items that the Banks are required to aggregate and report by census-tract to FHFA under section 10(k) of the Bank Act. It is these few items that comprise the actual information collection requirement to which Bank members and housing associates may be required to respond.

The OMB control number for the information collection, which expires on October 31, 2012, is 2590–0008. The likely respondents are member and non-member financial institutions that sell AMA assets to Banks.

**B. Burden Estimate**

FHFA estimates that the hour burden associated with the AMA collection will be lower than that estimated when the agency last requested clearance for this control number. FHFA estimates that the total annual average number of AMA loans acquired by all Banks will be 48,000 (640 member respondents x 75 loans per respondent). The estimate average time needed for a respondent to record and transmit the relevant data to the acquiring Bank will be 5 minutes per loan. Accordingly, the estimate for the total annual hour burden on respondents is 4,000 hours (640 x 75 x 5 minutes per loan).

**C. Comment Request**

In accordance with 5 CFR 1320.8(d), FHFA published a request for public comments regarding this information collection in the **Federal Register** on August 7, 2012. *See* 77 FR 47069. The 60-day comment period closed on October 9, 2012. FHFA received no public comments.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of the FHFA estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility and clarity of the information collected; and (4) ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Dated: October 24, 2012.

**Kevin Winkler,**

*Chief Information Officer, Federal Housing Finance Agency.*

[FR Doc. 2012–26622 Filed 10–29–12; 8:45 am]

BILLING CODE 8070–01–P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 14, 2012.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Barbara K. Ferry, Nevada, Missouri, individually and as trustee of the L. Ingles Ferry Trust A; Barbara Fowler Ferry Trust; Hubert L. Fowler Trust; and the Marguerite Fowler Trust, and as a member of a family control group which includes L. Ingles Ferry; Hubert L. Fowler; Marguerite Fowler; David L. Ferry; Joseph D. Ferry; Patrick Ferry; Lindley G. Ferry; Barbara J. Benbrook; Scott D. Benbrook; Jeffrey L. Benbrook; and Emily L. Benbrook;* to acquire voting shares of Mid-Missouri Bancshares, Inc., and thereby indirectly acquire voting shares of Mid-Missouri Bank, both in Springfield, Missouri.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Howard J. Rubin, Minneapolis, Minnesota, as Trustee of the Jeanie Rae Thorson 2012 Generation Skipping Trust, the Kristi Jo Jacobsen 2012 Generation Skipping Trust, and the Barbara Kay Billings 2012 Generation Skipping Trust,* Minneapolis, Minnesota, to join the Hanson family shareholder group, acting in concert to acquire voting shares of First LeRoy BanCorporation, Inc., and thereby indirectly acquire voting shares of First State Bank Minnesota, both in LeRoy, Minnesota.

Board of Governors of the Federal Reserve System, October 25, 2012.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2012–26620 Filed 10–29–12; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2012–26297) published on page 65190 of the issue for Thursday, October 25, 2012.

Under the Federal Reserve Bank of Dallas heading, the entry for Bryon Dirk Bagenstos, Cherokee, Oklahoma; Greggory Earl Glass, Kevin Russell Murrow, Mike Lee Mackey, all of Alva, Oklahoma; and Warren Dean Hughes, Carmen, Oklahoma, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Byron Dirk Bagenstos, Cherokee, Oklahoma; Greggory Earl Glass, Kevin Russell Murrow, Mike Lee Mack*ey, *all of Alva, Oklahoma; and Warren Dean Hughes,* Carmen, Oklahoma; as a group acting in concert to acquire voting shares of S G Bancshares, Inc., and thereby indirectly acquire voting shares of State Guaranty Bank, both in Okeene, Oklahoma.

Comments on this application must be received by November 9, 2012.

Board of Governors of the Federal Reserve System, October 25, 2012.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2012–26621 Filed 10–29–12; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 23, 2012.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *Franklin County UNITED Bancshares, Inc.,* Decherd, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Franklin County UNITED Bank, Decherd, Tennessee.

Board of Governors of the Federal Reserve System, October 25, 2012.

**Robert deV. Frierson,**

*Secretary of the Board.*

[FR Doc. 2012–26618 Filed 10–29–12; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HIT Standards Committee Advisory Meeting; Notice of Meeting

**AGENCY:** Office of the National Coordinator for Health Information Technology, HHS.

**ACTION:** Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

*Name of Committee:* HIT Standards Committee.

*General Function of the Committee:* To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

*Date and Time:* The meeting will be held on December 19, 2012, from 9:00 a.m. to 3:00 p.m. Eastern Time.

*Location:* This meeting will be VIRTUAL ONLY. Detailed call-in information is posted on the ONC Web site, *http://healthit.hhs.gov.*

*Contact Person for More Information:* MacKenzie Robertson, Office of the National Coordinator, HHS, 355 E Street SW., Washington, DC 20201, 202–205–8089, Fax: 202–260–1276, email: *mackenzie.robertson@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

*Agenda:* The committee will hear reports from its workgroups and updates from ONC and other Federal agencies. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov*

*Procedure:* ONC is committed to the orderly conduct of its advisory committee meetings. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Written submissions may be made to the contact person on or before two days prior to the Committee's meeting date. Oral comments from the public will be scheduled in the agenda. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ONC will take written comments after the meeting until close of business on that day.

ONC welcomes the attendance of the public at its advisory committee meetings. If you require special assistance due to a disability, please contact MacKenzie Robertson at least seven (7) days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: October 22, 2012.

**MacKenzie Robertson,**

*FACA Program Lead, Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 2012–26657 Filed 10–29–12; 8:45 am]

**BILLING CODE 4150–45–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HIT Standards Committee Advisory Meeting; Notice of Meeting

**AGENCY:** Office of the National Coordinator for Health Information Technology, HHS.

**ACTION:** Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

*Name of Committee:* HIT Standards Committee.

*General Function of the Committee:* To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

*Date and Time:* The meeting will be held on November 13, 2012, from 9:00 a.m. to 3:00 p.m. Eastern Time.

*Location:* The Dupont Circle Hotel, 1500 New Hampshire Avenue, Northwest, Washington, DC 20036. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov.*

*Contact Person:* MacKenzie Robertson, Office of the National Coordinator, HHS, 355 E Street SW., Washington, DC 20201, 202–205–8089, Fax: 202–260–1276, email: *mackenzie.robertson@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

*Agenda:* The committee will hear reports from its workgroups and updates from ONC and other Federal agencies. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

*Procedure:* ONC is committed to the orderly conduct of its advisory committee meetings. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Written submissions may be made to the contact person on or before two days prior to the Committee's meeting date. Oral comments from the public will be scheduled in the agenda. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ONC will take written comments after the meeting until close of business on that day.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact MacKenzie Robertson at least seven (7) days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: October 22, 2012.

**MacKenzie Robertson,**

*FACA Program Lead, Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 2012–26678 Filed 10–29–12; 8:45 am]

**BILLING CODE 4150–45–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HIT Policy Committee Advisory Meeting; Notice of Meeting

**AGENCY:** Office of the National Coordinator for Health Information Technology, HHS.

**ACTION:** Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

*Name of Committee:* HIT Policy Committee.

*General Function of the Committee:* To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

*Date and Time:* The meeting will be held on December 5, 2012, from 10:00 a.m. to 3:00 p.m./Eastern Time.

*Location:* The Dupont Circle Hotel, 1500 New Hampshire Avenue NW., Washington DC 20036. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov.*

*Contact Person:* MacKenzie Robertson, Office of the National Coordinator, HHS, 355 E Street SW., Washington, DC 20201, 202–205–8089, Fax: 202–260–1276, email: *mackenzie.robertson@hhs.gov.* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

*Agenda:* The committee will hear reports from its workgroups and updates from ONC and other Federal agencies. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

*Procedure:* ONC is committed to the orderly conduct of its advisory committee meetings. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Written submissions may be made to the contact person on or before two days prior to the Committee's meeting date. Oral comments from the public will be scheduled in the agenda. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled public comment period, ONC will take written comments after the meeting until close of business on that day.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact MacKenzie Robertson at least seven (7) days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: October 22, 2012.

**MacKenzie Robertson,**

*FACA Program Lead, Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.*

[FR Doc. 2012–26690 Filed 10–29–12; 8:45 am]

**BILLING CODE 4150–45–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

**Proposed Projects**

*Title:* Procedures for Requests from Tribal Lead Agencies to use Child Care and Development Fund (CCDF) Funds for Construction or Major Renovation of Child Care Facilities.

*OMB No.:* 0970–0160.

*Description:* The Child Care and Development Block Grant Act, as amended, allows Indian Tribes to use Child Care and Development Fund (CCDF) grant awards for construction and renovation of child care facilities. A tribal grantee must first request and receive approval from the Administration for Children and Families (ACF) before using CCDF funds for construction or major renovation. This information collection contains the statutorily-mandated uniform procedures for the solicitation and consideration of requests, including instructions for preparation of environmental assessments in conjunction with the National Environmental Policy Act. The proposed draft procedures update the procedures that were originally issued in August 1997 and last updated in April 2010. Respondents will be CCDF tribal grantees requesting to use CCDF funds for construction or major renovation.

*Respondents:* Tribal Child Care Lead Agencies acting on behalf of Tribal Governments.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Construction or Major Renovation of Tribal Child Care Facilities. ..... | 5 | 1 | 20 | 100 |

*Estimated Total Annual Burden Hours:* 100

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2012–26567 Filed 10–29–12; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Comment Request

**Proposed Projects**

*Title:* Tribal TANF Financial Report (ACF–196T).

*OMB No.:* 0970–0345.

*Description:* Tribes use Form ACF–196T to report expenditures for the Tribal TANF grant. Authority to collect and report this information is found in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193. Tribal entities with approved Tribal plans for implementation of the TANF program are required by Section 412(h) of the Social Security Act to report financial data. Form ACF–196T provides for the collection of data regarding Federal expenditures. Failure to collect this data would seriously compromise the Administration for Children and Families' (ACF) ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress. Financial management of the program would be seriously compromised if the expenditure data were not collected.

45 CFR part 286 Subpart E requires the strictest controls on funding requirements, which necessities review of documentation in support of Tribal expenditures for reimbursement. Comments received from previous efforts to implement a similar Tribal TANF report Form ACF–196T were used to guide ACF in the development of the product presented with this submittal

*Respondents:* All Tribal TANF Agencies.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| ACF–196T | 56 | 4 | 1.00 | 224 |

*Estimated Total Annual Burden Hours:* 224.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

*The Department specifically requests comments on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2012–26575 Filed 10–29–12; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2012–N–0001]**

### Cellular, Tissue and Gene Therapies Advisory Committee; Amendment of Notice

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of a meeting of the Cellular, Tissue and Gene Therapies Advisory Committee. This meeting was announced in the **Federal Register** of October 17, 2012 (77 FR 63840–63841). The amendment is being made to reflect a change in the *Date and Time, Agenda, Procedure,* and *Closed Committee Deliberations* portions of the document. There are no other changes.

**FOR FURTHER INFORMATION CONTACT:** Gail Dapolito or Sheryl Clark, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington DC area). Please call the Information Line for up-to-date information on this meeting.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of October 17, 2012, FDA announced that a meeting of the Cellular, Tissue and Gene Therapies Advisory Committee would be held on November 29, 2012. On page 63841, in the first column, the *Date and Time* portion of the document is changed to read as follows:

The teleconference meeting will be held on November 29, 2012 from 1 p.m. to 4:30 p.m., Eastern Time.

On page 63841, in the first column, last paragraph, the *Agenda* portion is changed to read as follows:

On November 29, 2012 the committee will meet in open session to hear updates of research programs in the Gene Transfer and Immunogenicity Branch, Office of Cellular, Tissue and Gene Therapies, Center for Biologics Evaluation and Research, FDA.

On page 63841, second column, second paragraph, first sentence, the *Procedure* portion is changed to read as follows:

On November 29, 2012, from 1 p.m. to 2:30 p.m. (Eastern Time) the meeting is open to the public.

On page 63841, second column, second paragraph, fourth sentence, the *Procedure* portion is changed to read as follows:

Oral presentations from the public will be scheduled between approximately 2:30 p.m. and 3:30 p.m.

On page 63841, second column, third paragraph, first sentence, the *Closed Committee Deliberations* portion is changed to read as follows:

On November 29, 2012 from approximately 3:30 p.m. to 4:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: October 23, 2012.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2012–26635 Filed 10–29–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Notice of Intent To Make Changes in the State Title V Maternal and Child Health Block Grant Allocations

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Response to solicitation of comments.

**SUMMARY:** The Health Resources and Services Administration's (HRSA) Maternal and Child Health Bureau (MCHB) plans to move forward in implementing annual changes to the State Title V MCH Block Grant allocations, beginning in Federal Fiscal Year (FY) 2013, using the U.S. Census Bureau's 3-year American Community Survey (ACS) poverty estimates. Title V MCH Block Grant funds are currently allocated to states based in part on a calculation of the number of children living in poverty (in an individual state) as compared to the total number of children living in poverty in the United States. Historically, data for the number of children in poverty in each state came from the Decennial Census. As the Census Bureau has replaced the Decennial Census long-form sample questionnaire with the ACS, MCHB

plans to use the ACS as its source for this data. In order to maintain balance between precision and currency, annual changes to the State Title V MCH Block Grant allocations will be based on a rolling average of the 3-year ACS poverty estimates.

Yearly changes in the MCH Block Grant allocations for individual states will be buffered by the use of shared data for two of the three data years in the rolling period estimate. According to the U.S. Census Bureau, the ACS is the best source of survey-based state-level income and poverty estimates. Moreover, ACS child poverty estimates are produced annually, and their use will allow the Block Grant allocation proportions to be updated more frequently than every 10 years.

**FOR FURTHER INFORMATION CONTACT:** Cassie Lauver, Director, Division of State and Community Health, Maternal and Child Health Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, Room 18–31, Rockville, Maryland 20857, or by telephone at (301) 443–2204.

**DATES:** *Effective Date:* October 30, 2012.

**SUPPLEMENTARY INFORMATION:** Beginning in FY 2013, HRSA will use the U.S. Census Bureau's ACS 3-year rolling average data to determine the annual poverty-based allocations to states under Section 502 of Title V of the Social Security Act (42 U.S.C. 702). The Census Bureau produces annual state-level poverty estimates based on the most recent 1, 3, and 5 years of ACS data, as well as annual model-based Small Area Income and Poverty Estimates (SAIPE). Based on a thorough review, HRSA determined that the 3-year time frame strikes an appropriate balance between reliability (strength of 5-year estimates) and currency (strength of 1-year estimates). The 3-year estimates provide necessary stability in annual poverty-based allocation changes for all states, regardless of size, while still allowing the allocations to be responsive to changes in the distribution of children in poverty across states. With the 3-year estimates for FY 2013 already available, states have been informed of the proposed changes and need for adjustment from the existing allocation proportions based on the 2000 Census data. The ACS data are released annually by the U.S. Census Bureau in October which will allow states to be aware of the poverty-based allocation proportions close to a year in advance of each subsequent fiscal year.

The proposed change in State Title V MCH Block Grant allocations was announced in the **Federal Register** at 77 FR 42749 on July 20, 2012. A comment period of 60 days was established to allow interested parties to submit comments. HRSA received three responses. The responses included two comments that specifically discussed the potential impacts of the proposed change in State MCH Block Grant formula allocations using the 3-year ACS child poverty estimates. Responses to these comments are provided below.

The remaining comments did not specifically address the proposed changes in State Title V MCH Block Grant allocation, but instead expressed concern with the size of the federal government; accuracy of Census data, generally; and equity of the statutorily-mandated Title V funding formula. These issues were not addressed in greater detail because they are beyond the scope of this notice.

**Comments and Responses**

*Comment:* Timing of the proposed change is inopportune in light of the potential for significant reductions in State MCH Block Grant allocations as a result of sequestration.

*Response:* The timing of the proposed changes to the state formula allocations is consistent with the 10-year interval for updating formula allocations based on the U.S. Census Bureau's Decennial Census. Current formula allocations are based on 2000 U.S. Census child poverty data. Use of a 3-year rolling average of the ACS child poverty data will allow for annual updates to the State MCH Block Grant formula allocations and greater responsiveness to changes in the distribution of children in poverty across states.

*Comment:* If the new methodology is implemented and will use the ACS, the 5-year rather than the 3-year estimate should be used.

*Response:* Researchers in MCHB's Office of Epidemiology and Research evaluated the impact of using 1-year, 3-year, and 5-year ACS data, and the single-year SAIPE on annual poverty-based allocation changes as well as overall allocation changes. Consistent with the documentation and guidelines provided by the U.S. Census Bureau, the poverty data are the most current and least precise through the use of 1-year data and least current but most precise through the use of 5-year data. Using the 3-year ACS poverty data achieves a reasonable balance between reliability and currency.

Dated: October 23, 2012.

**Mary K. Wakefield,**

*Administrator.*

[FR Doc. 2012–26579 Filed 10–29–12; 8:45 am]

BILLING CODE 4165–15–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 77 FR 48525–48526 dated August 14, 2012).

This notice reflects organizational changes to the Health Resources and Services Administration. This notice updates the functional statements for the Bureau of Clinician Recruitment and Service (RU) and the Bureau of Health Professions (RP). Specifically, this notice: (1) Transfers the functions associated with the Office of Shortage Designation (RP2) from the Bureau of Health Professions (RP), to the Bureau of Clinician Recruitment and Service (RU); (2) changes the name of the Office of Policy and Program Development (RU8) to the Division of Policy and Shortage Designation (RU8); (3) updates the functional statement for the Office of Policy and Program Development (RU8); (4) updates the functional statement for the Bureau of Health Professions and the Office of the Associate Administrator, Bureau of Health Professions (RP); (5) changes the name of the Division of Workforce and Performance Management (RPV) to the Office of Performance Measurement (RP4); (6) changes the name of the National Center for Workforce Analysis (RPW) to the National Center for Health Workforce Analysis (RPW); (7) transfers the functions associated with the international migration, domestic training, and utilization of foreign medical graduates and U.S. citizens studying abroad from the Division of Medicine and Dentistry (RPC) to the newly named National Center for Health Workforce Analysis (RPW) and updates the functional statement for the Division of Medicine and Dentistry (RPC); (8) transfers the administration of grants, cooperative agreements and the clearance of correspondence function from the Office of Administrative

Management Services (RP1) to the Office of Policy Coordination (RP3); and (9) updates the functional statement for the Division of Public Health and Interdisciplinary Education (RPF).

**Chapter RU—Bureau of Clinician Recruitment and Service**

*Section RU–10, Organization*

Delete in its entirety and replace with the following:

The Bureau of Clinician Recruitment and Service (RU) is headed by the Associate Administrator, who reports directly to the Administrator, Health Resources and Services Administration. The Bureau of Clinician Recruitment and Service includes the following components:

(1) Office of the Associate Administrator (RU);

(2) Office of Legal and Compliance (RU1);

(3) Division of National Health Service Corps (RU5);

(4) Division of Nursing and Public Health (RU6);

(5) Division of External Affairs (RU7);

(6) Division of Policy and Shortage Designation (RU8);

(7) Division of Program Operations (RU9);

(8) Division of Regional Operations (RU10); and

(9) Office of Business Operations (RU11).

*Section RU–20, Functions*

(1) Update the functional statement for the Office of Policy and Program Development (RU8).

Division of Policy and Shortage Designation (RU8)

Serves as the focal point for the development of BCRS programs and policies and directly supports national efforts to analyze and address equitable distribution of health professionals for access to health care for underserved populations. This Division: (1) Leads and coordinates the analysis, development and drafting of policy impacting BCRS programs; (2) coordinates program planning and tracking of legislation and other information related to BCRS programs; (3) leads and monitors the development of workforce projections relating to BCRS programs; (4) provides oversight, processing and coordination for the J1–visa program; (5) performs environmental scanning on issues that affect BCRS programs and assesses the impact of programs on underserved communities; (6) monitors BCRS activities in relation to HRSA's Strategic Plan; (7) develops budget projections and justifications; (8) serves as the Bureau's focal point for program information; (9) works collaboratively with other components within HRSA and HHS, and with other federal agencies, state and local governments, and other public and private organizations on all issues affecting BCRS programs and policies including health professional shortage areas (HPSAs) and medically-underserved areas and populations; (10) directly supports national efforts to analyze and address equitable distribution of health professionals for access to health care for underserved populations; (11) recommends HPSAs and medically-underserved areas and populations (MUAs/MUPs); (12) approves designation requests and finalizes designation policies and procedures for both current and proposed designation criteria; (13) negotiates and approves state designation agreements; and (14) oversees grants to state primary care offices and conducts all business management aspects of the review, negotiation, award, and administration of these grants.

**Chapter RP—Bureau of Health Professions**

*Section RP–10, Organization*

Delete in its entirety and replace with the following:

The Bureau of Health Professions (RP) is headed by the Associate Administrator, who reports directly to the Administrator, Health Resources and Services Administration. The Bureau of Health Professions includes the following components:

(1) Office of the Associate Administrator (RP);

(2) Office of Administrative Management Services (RP1);

(3) Office of Policy Coordination (RP3);

(4) Office of Performance Measurement (RP4);

(5) Division of Public Health and Interdisciplinary Education (RPF);

(6) Division of Medicine and Dentistry (RPC);

(7) Division of Nursing (RPB);

(8) Division of Practitioner Data Banks (RPG);

(9) Division of Student Loans and Scholarships (RPD); and

(10) National Center for Health Workforce Analysis.

*Section RP–20, Functions*

(1) Delete the functional statement for the Bureau of Health Professions (RP) and replace in its entirety.

Bureau of Health Professions (RP)

The Bureau of Health Professions' programs are designed to improve the health of the nation's underserved communities and vulnerable populations by assuring a diverse, culturally competent workforce that is ready to provide access to quality health care services. Bureau of Health Professions' program components provide workforce studies, including research analysis of alternative methodologies for areas of need, training grants for health professions, financial support to students, information to protect the public from unsafe health care practitioners, and support for graduate medical education at the nation's freestanding children's hospitals and teaching health centers. The Health Professions Training Program awards grants to health profession schools and training programs in every state. Grantees use the funds to develop, expand, and enhance their efforts to train the workforce America needs.

Office of the Associate Administrator (RP)

The Office of the Associate Administrator provides overall leadership, direction, coordination, and planning in support of the Bureau of Health Professions' programs to ensure alignment and support of the Agency mission and strategic objectives. Specifically, the Office of the Associate Administrator: (1) Directs and provides policy guidance for workforce recruitment, student assistance, training, and placement of health professionals to serve in underserved areas; (2) establishes program goals and priorities, and provides oversight of program quality and integrity in execution; (3) maintains effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health workforce development and improving access to health care for the nation's underserved; (4) plans, directs, and coordinates Bureau-wide management and administrative activities; (5) leads and guides Bureau programs in recruiting and retaining a diverse workforce; and (6) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the Bureau.

Office of Administrative Management Services (RP1)

The Office of Administrative Management Services collaborates with

the Bureau of Health Professions' leadership to plan, coordinate, and direct Bureau-wide administrative management activities. Specifically: (1) Plans and directs financial management activities including budget formulation, presentation, and execution functions and supports linking of the budget and planning processes; (2) provides human resource services regarding all aspects of personnel management, workforce planning, and the allocation and utilization of personnel resources; (3) conducts all business management aspects of the review, negotiation, award, and administration of contracts; (4) provides other support services including the acquisition, management, and maintenance of supplies, equipment, space, training, and travel, and (5) assumes special projects or takes the lead on certain issues as tasked by the Bureau Associate or Deputy Associate Administrator.

Office of Policy Coordination (RP3)

The Office of Policy Coordination serves as the focal point for coordination and integration of Bureau policy development, analyses, and evaluation. Specifically: (1) Coordinates Bureau-wide, cross-cutting initiatives; (2) links Bureau policy activities to HRSA-wide policy development, analyses, and evaluation; (3) serves as a key point of contact to coordinate public relations and media communications, as well as activities related to congressional inquiries, and other stakeholder groups in conjunction with the Agency and Department; (4) prepares policy analysis papers and other planning documents as required; (5) analyzes issues arising from legislation, budget proposals, regulatory actions and other program or policy actions; (6) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the Bureau as needed; (7) conducts all business management aspects of the review, negotiation, award, and administration of grants and cooperative agreements; and (8) assumes special projects or takes the lead on certain issues as tasked by the Bureau Associate or Deputy Associate Administrator.

Office of Performance Measurement (RP4)

The Office of Performance Measurement serves as the Bureau focal point for performance measurement coordination, reporting, evaluation, and analysis. Specifically: (1) Leads, guides, and coordinates performance measurement, performance reporting, and program evaluation activities of the Bureau's Divisions and Offices; (2) coordinates and guides the Bureau's efforts to use performance information to improve program planning and implementation; (3) maintains effective relationships within HRSA and with other federal and non-federal agencies engaged in program evaluation; (4) promotes quality improvement in health professions education through collaboration and partnerships with national and international institutes and centers for quality improvement; and (5) works collaboratively with the National Center for Health Workforce Analysis.

Division of Public Health and Interdisciplinary Education (RPF)

The Division of Public Health and Interdisciplinary Education serves as the Bureau's lead for increasing the public health and behavioral health workforce, promoting interdisciplinary health professions issues and programs, including geriatric training, and increasing the diversity of the health professions workforce. Specifically: (1) Provides grants and technical assistance to expand and enhance training critical to the current and future public health workforce, supports academic-community partnerships, expands and improves the quality of health professions interdisciplinary and inter-professional education, expands health career opportunities for diverse and disadvantaged populations and supports and guides the career development in geriatric specialties; (2) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (3) collaborates within the Bureau to conduct, support, or obtain analytical studies to determine the present and future supply requirements of the healthcare workforce in the areas addressed by the Division of Public Health and Interdisciplinary Education's programs; (4) provides leadership and staff support for the Advisory Committee on Interdisciplinary, Community-Based Linkages; and (5) represents the Bureau, Agency, and federal government, as designated, on national committees, and maintains effective relationships within HRSA and with other federal and non-federal agencies, state and local governmental agencies, and other public and private organizations concerned with public health and behavioral health workforce development, and improving access to health care for the nation's underserved.

Division of Medicine and Dentistry (RPC)

The Division of Medicine and Dentistry serves as the Bureau's lead in support and evaluation of medical and dental personnel development and utilization including (a) primary care physicians, (b) dentists, (c) dental hygienists, and (d) physician assistants to provide health care in underserved areas. Specifically: (1) Administers grants to educational institutions for the development, improvement, and operation of educational programs for primary care physicians (pre-doctoral, residency) and physician assistants, including support for community-based training and funding for faculty development to teach in primary care specialties training; (2) provides technical assistance and consultation to grantee institutions and other governmental and private organizations on the operation of these educational programs which includes funding for the nation's free standing children's hospitals to support graduate medical education; (3) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (4) collaborates within the Bureau to conduct, support, or obtain analytical studies to determine the present and future supply and requirements of physicians, dentists, dental hygienists and physician assistants by specialty, geographic location, and for state planning efforts; (5) encourages community-based training opportunities for primary care providers, particularly in underserved areas; (6) provides leadership and staff support for the Advisory Committee on Training in Primary Care Medicine and Dentistry and for the Council on Graduate Medical Education; and (7) represents the Bureau, Agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development and improving access to health care for the nation's underserved.

Division of Nursing (RPB)

The Division of Nursing serves as the Bureau's leader for nursing education and practice, including increasing the diversity of the nursing workforce to improve access to health care in underserved areas. Specifically: (1) Provides grants and technical assistance for schools of nursing in the development and improvement of

education for nursing or specialized training in primary care to enhance training opportunities and competencies critical to the current and future nursing workforce; (2) addresses nursing workforce shortages through projects that focus on expanding enrollment in baccalaureate programs, developing internship and residency programs, or providing education in new technologies, including distance learning, nurse practice projects that focus on establishing/expanding practice arrangements in non-institutional settings, providing care for underserved populations and other high-risk groups, skill-building in managed care, quality improvement and other skills needed in existing and emerging organized health care systems, or developing cultural competencies; (3) develops, supports, recommends, coordinates and evaluates health resources and health career opportunities for diverse and disadvantaged populations; (4) promotes the involvement of states and communities in developing and administering nursing programs and assists states and communities in improving access to nursing services and educational programs; (5) facilitates coordination of nursing-related issues with other governmental agencies and consults with them on national or international nursing workforce planning and development issues; (6) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (7) collaborates within the Bureau to conduct, support, or obtain analytical studies to determine the present and future supply and the requirements of the nursing workforce; (8) leads initiatives in the area of international nursing information exchange and nursing workforce planning and development; (9) the Director, on behalf of the Secretary, serves as the Chair of the National Advisory Council on Nurse Education and Practice, and provides staff support; and (10) represents the Bureau, Agency, and federal government, as designated, on national committees and maintains effective relationships within HRSA, with external health professional groups, with other federal and non-federal agencies, state and local governments, and other public and private organizations with a common interest in the nation's capacity to deliver nursing services.

Division of Practitioner Data Banks (RPG)

The Division of Practitioner Data Banks coordinates with the Department and other federal entities, state licensing boards, national, state, and local professional organizations, to promote quality assurance efforts and deter fraud and abuse by administering the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank. Specifically: (1) Monitors adverse licensure information on all licensed health care practitioners and health care entities; (2) develops, proposes, and monitors efforts for (a) credential assessment, granting of privileges, monitoring and evaluating programs for physicians, dentists, other health care professionals including quality assurance, (b) professional review of specified medical events in the health care system including quality assurance, and (c) risk management and utilization reviews; (3) encourages and supports evaluation and demonstration projects and research concerning quality assurance, medical liability and malpractice; (4) ensures integrity of data collection following all disclosure procedures without fail; (5) conducts and supports research based on the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank information; (6) maintains active consultative relations with professional organizations, societies and federal agencies involved with the National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank; (7) works with the Secretary's office to provide technical assistance to states undertaking malpractice reform; and (8) maintains effective relations with the Office of the General Counsel, the Office of Inspector General, and HHS concerning practitioner licensing and data bank issues.

Division of Student Loans and Scholarships (RPD)

The Division of Student Loans and Scholarships serves as the focal point for overseeing federal loan and scholarship programs supporting health professionals. Specifically: (1) Monitors and assesses educational and financial institutions with respect to capabilities and management of federal support for students and the tracking of obligatory service requirements; (2) develops and conducts training activities for staff of educational and financial institutions; (3) coordinates financial aspects of programs with educational institutions; (4) develops program data needs and reporting requirements; and (5) maintains effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerning student assistance.

National Center for Health Workforce Analysis (RPW)

The National Center for Health Workforce Analysis provides leadership in the development and dissemination of accurate and timely data for analysis and research regarding the nation's health workforce in order to inform those making decisions for policymakers and to support goals related to the nation's health professionals' workforce. Specifically: (1) Develops the capacity to directly collect health professions workforce data to quantify and measure supply, demand, distribution, shortages and surpluses at the national level, for selected disciplines and selected states and regions; (2) collaborates and conducts studies to assess and monitor factors, such as policy actions likely to impact future supply, demand, distribution and/or use of health professionals; (3) develops and coordinates the Bureaus' data collection and modeling on health professions' workforce in conjunction with other entities involved in data collection and analysis; (4) maintains effective relationships, conducts data collection and assesses quality within HRSA staff, other federal and non-federal agencies, and organizations on the health professions workforce; (5) produces reports and disseminates data on the health professions workforce within HRSA to other federal and non-federal agencies, state and local governments, other public and private organizations, and the public concerned with health personnel development and improving access to health care for the nation's underserved; (6) provides guidance to state partnerships conducting comprehensive workforce data collection on the health care workforce which will support better coordination and implementation for workforce planning and analysis at the state level; (7) supports and conducts programs with respect to activities associated with the international migration, domestic training, and utilization of foreign medical graduates and U.S. citizens studying abroad; and (8) works collaboratively with the Office of Performance Measurement.

*Section R–30, Delegations of Authority*

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: October 24, 2012.

**Mary K. Wakefield,**

*Administrator.*

[FR Doc. 2012–26565 Filed 10–29–12; 8:45 am]

**BILLING CODE 4165–15–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, Dating Violence and Marketing.

*Date:* November 13, 2012.

*Time:* 1:00 p.m. to 2:00 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:* Anna L Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301–435–2889, *rileyann@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 24, 2012.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012–26602 Filed 10–29–12; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Ancillary Studies to the ISC Consortium.

*Date:* November 29, 2012.

*Time:* 3:30 p.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 23, 2012.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2012–26603 Filed 10–29–12; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Prospective Grant of Exclusive Evaluation Option License: Pre-clinical Evaluation of Human Therapeutics Utilizing Ubiquitin Based Fusion Proteins With Apoptosis Modifying Proteins Such as BCL–$X_L$

**AGENCY:** National Institutes of Health, Public Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive evaluation option license to practice the inventions covered under the scope of United States Patent No. 6,737,511 issued May 18, 2004 entitled ''Receptor-mediated Uptake of an Extracellular BCL-$x_L$ Fusion Protein Inhibits Apoptosis'' (HHS Ref. No. E–073–1999/0–US–02; Inventors Richard Youle et al.) and International Patent Application No. PCT/US2012/032762 filed April 9, 2012 entitled ''Ubiquitin Fusions for Improving the Efficacy of Cytosolic Acting Targeted Toxins'' (HHS Ref. No. E–150–2011/0–PCT–02; Inventors Christopher Bachran et al.) to Medicenna Therapeutics, (''MEDICENNA'') a Canada based company. The patent rights in this invention have been assigned to the government of the United States of America.

The prospective exclusive evaluation option license territory may be worldwide and the field of use may be limited to the pre-clinical evaluation of lead therapeutic candidates for the development of human therapeutics within the field of cancer and neurological diseases. Upon expiration or termination of the exclusive evaluation option license, MEDICENNA will have the right to execute an exclusive patent commercialization license which will supersede and replace the exclusive evaluation option license with no broader territory than granted in the exclusive evaluation option license and the field of use will be commensurate with the commercial development plan at the time of conversion.

**DATES:** Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before November 14, 2012 will be considered.

**ADDRESSES:** Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive evaluation option license should be directed to: Sabarni K. Chatterjee, Ph.D., M.B.A. Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5587; Facsimile: (301) 402–0220; Email: *chatterjeesa@mail.nih.gov.*

**SUPPLEMENTARY INFORMATION:** The technologies covered under the present inventions relate to (1) apoptosis-modifying fusion proteins with at least two domains, one of which targets the fusion proteins to a target cell, and another of which modifies an apoptotic response of the target cell. For example, fusing various cell-binding domains to Bcl-$X_L$ and Bad allows targeting to specific subsets of cells *in vivo,* permitting treatment and/or prevention of cell-death related consequences of various diseases and injuries. This technology could be used to minimize or prevent apoptotic damage that can be caused by neurodegenerative disorders, e.g., Alzheimer's disease, Huntington's disease or spinal-muscular atrophy, stroke episodes or transient ischemic neuronal injury, e.g., spinal cord injuries. Additionally, apoptotic-enhancing fusion proteins of the current invention could be used to inhibit cell growth, e.g., uncontrolled cellular proliferation and (2) a platform technology using ubiquitin to improve the delivery and efficacy of cytosolic targeted toxins. This invention describes generation of fusion proteins via the introduction of the protein ubiquitin, a small protein in eukaryotic cells that plays a role in protein recycling, in between a targeting moiety and a catalytic moiety. Ubiquitin contains a cleavable motif at its C-terminus, which can help in the decoupling of the two moieties. Decoupling of the two moieties would increase the cytotoxicity of the treatment, since the catalytic domain of a Targeted Toxin (TT) remains longer in the cytosol. This method of generating fusion proteins would be highly useful for all TT and immunotoxins that access the cytosol to either affect cytosolic targets or traffic to further sites of action.

The prospective exclusive evaluation option license is being considered under the small business initiative launched on October 1, 2011 and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404.7. The prospective exclusive evaluation option license, and a subsequent exclusive patent commercialization license, may be granted unless within fifteen (15) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR Part 404.7.

Any additional, properly filed, and complete applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive evaluation option license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: October 23, 2012.

**Richard U. Rodriguez,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2012–26601 Filed 10–29–12; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Prospective Grant of Exclusive License: Development of Chemopreventive Treatments for Head and Neck Squamous Cell Carcinoma

**AGENCY:** National Institutes of Health, Public Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive evaluation option license to practice the inventions embodied in PCT Patent Application No. PCT/US2009/054478, U.S. Patent Application No. 13/059,335 and foreign equivalents thereof entitled ''Chemopreventive of Head and Neck Squamous Cell Carcinoma'' (HHS Ref. No. E–302–2008/0) and PCT Patent Application No. PCT/IL2010/000694, U.S. Patent Application No. 13/391,756 and foreign equivalents thereof entitled ''Prevention and Treatment of Oral and Lips Diseases Using Sirolimus and Derivatives Sustained Release Delivery Systems for Local Application to the Oral Cavity'' (HHS Ref. No. E–282–2009/0) to Rapamycin Holdings, Inc., which is located in San Antonio, TX. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive evaluation option license territory may be worldwide and the field of use may be limited to use of the Licensed Patent Rights for the prevention and treatment of head and neck cancers.

Upon the expiration or termination of the exclusive evaluation option license, Rapamycin Holdings, Inc. will have the exclusive right to execute an exclusive commercialization license which will supersede and replace the exclusive evaluation option license with no greater field of use and territory than granted in the exclusive evaluation option license.

**DATES:** Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before November 14, 2012 will be considered.

**ADDRESSES:** Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Whitney A. Hastings, Ph.D., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 451–7337; Facsimile: (301) 402–0220; Email: *hastingw@mail.nih.gov.*

**SUPPLEMENTARY INFORMATION:** In head and neck squamous cell carcinoma (HNSCC), a cancer occurring mostly in the mouth, it is frequently observed that the Akt/mTOR pathway is abnormally activated. Therefore, inhibiting this signaling pathway may help in treating this disease. Rapamycin and its analogs are known to inhibit the activity of mTOR so in principle they could serve as therapeutics for treating HNSCC.

This technology describes a method of potentially preventing or treating HNSCC through the inhibition of mTOR activity. The proof of this principle was demonstrated by rapid regression of mouth tumors in mice afflicted with Cowden syndrome with the administration of rapamycin. Like HNSCC, development of this disease is linked to over activation of the Akt/mTOR pathway. Furthermore, the therapeutic potential of rapamycin was demonstrated using mice in experiments that model chronic exposure to tobacco, which promotes the development of HNSCC. Therefore, inhibitors of mTOR have considerable potential in the prevention and treatment of HNSCC. Moreover, using a local, sustained-release oral drug delivery system for early intervention to prevent potentially malignant or

premalignant lesions developing into HNSCC, could deliver the inhibitors of mTOR with reduced systemic side effects and a lower required drug dose.

The prospective exclusive license and any further license applications received as objections to this Notice of Intent to Grant an Exclusive License, will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive evaluation option license is being considered under the small business initiative launched on 1 October 2011, and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive evaluation option license, and a subsequent exclusive commercialization license, may be granted unless the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7 within fifteen (15) days from the date of this published notice. A previous Notice of Intent to Grant an Exclusive License for the instant technology was published in 77 FR 28614, Tuesday, May 15, 2012.

Complete applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive evaluation option license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: October 25, 2012.

**Richard U. Rodriguez,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2012–26606 Filed 10–29–12; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2012–0026]**

### Notice of Request for Comments on the Scope of Future Revisions to ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants'' (NUREG–0654/FEMA–REP–1, Rev. 1)

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) is soliciting comments from stakeholders and interested members of the public on the scope of future revisions to ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants,'' (NUREG–0654/FEMA–REP–1, Rev. 1). In association with this request for comments, FEMA and the Nuclear Regulatory Commission (NRC) held two public meetings on August 22, 2012 and September 13, 2012.

**DATES:** Written comments must be submitted to FEMA by January 31, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID No. FEMA–2012–0026, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* FEMA, Regulatory Affairs Division, Office of Chief Counsel, 500 C Street SW., Room 840, Washington, DC 20472–3100.

*Instructions:* Direct your comments to Docket ID No. FEMA–2012–0026. All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal e-Rulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. Please be aware that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual who submitted the comment (or signed the comment, if submitted on behalf of an association, business, labor union, etc.). You may want to review the Federal Docket Management System of records notice published in the **Federal Register** on March 24, 2005 (70 FR 15086).

Do not submit comments that include trade secrets, confidential commercial or financial information to the public regulatory docket. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the address specified in the **ADDRESSES** section of this notice. If FEMA receives a request to examine or copy this information, FEMA will treat it as any other request under the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Department of Homeland Security (DHS)'s FOIA regulation found in 6 Code of Federal Regulations (CFR) Part 5 and FEMA's regulations found in 44 CFR Part 5.

*Docket:* For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov,* click on ''Advanced Search,'' then enter ''FEMA–2012–0026'' in the ''By Docket ID'' box, then select ''FEMA'' under ''By Agency,'' and then click ''Search.'' Submitted comments may also be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C Street SW., Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Vanessa Quinn, Radiological Emergency Preparedness Branch Chief, Radiological Emergency Preparedness Branch, Technological Hazards Division, National Preparedness Directorate, Federal Emergency Management Agency; Phone Number: 703–605–1535.

**SUPPLEMENTARY INFORMATION:** FEMA, working with the Nuclear Regulatory Commission (NRC), is soliciting comments from stakeholders and interested members of the public on the scope of future revisions to ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants,'' NUREG–0654/FEMA–REP–1, Rev. 1. The document is available online at *http://www.regulations.gov* (Docket ID FEMA–2012–0026).

NUREG–0654/FEMA–REP–1, Rev.1 is a joint FEMA/NRC policy document that provides guidance on the sixteen Planning Standards referenced in FEMA's regulations at 44 CFR 350.5 and the NRC's regulations at 10 CFR part 50. Both agencies use these Planning Standards to evaluate the adequacy of the emergency plans of commercial nuclear power plant owners and operators (NRC), and the emergency plans and preparedness of State and local governments within the Emergency Planning Zones surrounding commercial nuclear power plants (FEMA).

Since the publication of NUREG–0654/FEMA–REP–1, Rev.1 in November 1980, four supplementary documents and one addendum have been issued that update and modify specific planning and procedural elements. These documents are available online at *http://www.regulations.gov* (Docket ID FEMA–2012–0026). FEMA and the NRC are considering revising NUREG–0654/FEMA–REP–1, Rev.1 to address stakeholder interest and the various emergency planning and preparedness lessons learned since its initial publication.

FEMA and the NRC held two public meetings on August 22, 2012 and

September 13, 2012. (77 FR 46766, August 6, 2012). The purpose of these public meetings was to: (1) Solicit input from stakeholders and interested members of the public on the scope of future revisions to NUREG–0654/FEMA–REP–1, Rev.1; (2) describe the proposed timeline for the revisions to NUREG–0654/FEMA–REP–1, Rev.1; and (3) promote transparency, public participation, and collaboration during the NUREG–0654/FEMA–REP–1, Rev.1 revision process. All of the presentation material and meeting notes are available to review online at *http://www.regulations.gov* (Docket ID FEMA–2012–0026).

Through this Notice, we are soliciting comments from stakeholders and interested members of the public on the scope of future revisions to NUREG–0654/FEMA–REP–1, Rev.1. While not limited to these specific areas, we are soliciting comments on the following issues related to NUREG–0654/FEMA–REP–1, Rev.1 revision:

- *Format and Terminology:* various e-formats, clean-up edits, and web-based software.
- *Policy and Legal Frameworks:* National Response Frameworks, National Incident Management System (NIMS), emergency preparedness (EP) rulemaking issues, NRC Commission papers, lessons learned from the Fukushima-Daiichi nuclear power plant accident, and Presidential Policy Directive 8 (PPD–8).
- *Engineering:* evacuation time estimates (ETEs), Alert and Notification Systems (ANS), State-of-the-Art Reactor Consequence Analyses (SOARCA), Joint Information Centers (JICs), Joint Information Systems (JIS), messaging (including risk communication), social media, expanding emergency planning zones (EPZs).
- *Health Physics:* protective action recommendations (PARs), radiological laboratories, monitoring/decontamination, dose assessment, recovery/re-entry/return, portal monitors, potassium iodide (KI), and monitoring and decontamination of household pets.
- *Operational:* letters of agreement (LOAs), mobilization, memorandums of understandings (MOUs), staffing, authorities, protective action decisions (PADs).
- *Training and Implementation:* implementation timeline, deadlines, updating courses, credentialing.
- *Assessments:* exercises, plan reviews, inspections, call-in drills, report-in drills.
- *Miscellaneous:* additional items that are not defined in any of the specified category areas.

Dated: October 23, 2012.

**Timothy W. Manning,**

*Deputy Administrator, Protection and National Preparedness, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2012–26578 Filed 10–29–12; 8:45 am]

**BILLING CODE 9110–21–P**

---

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

### Extension of Agency Information Collection Activity Under OMB Review: Office of Law Enforcement/Federal Air Marshal Service Mental Health Certification

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 30-Day Notice.

**SUMMARY:** This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0043, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on July 20, 2012, 77 FR 42751. The collection involves a certification form that applicants for the Federal Air Marshal positions are required to complete regarding their mental health history.

**DATES:** Send your comments by November 29, 2012. A comment to OMB is most effective if OMB receives it within 30 days of publication.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Susan L. Perkins, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3398; email *TSAPRA@dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

### Information Collection Requirement

*Title:* Office of Law Enforcement/Federal Air Marshal Service Mental Health Certification.

*Type of Request:* Extension of a currently approved collection.

*OMB Control Number:* 1652–0043.

*Forms(s):* TSA Form 1164.

*Affected Public:* Law Enforcement Officers/Air Marshal Applicants.

*Abstract:* TSA policy requires that applicants for Federal Air Marshal (FAM) positions meet certain medical standards, including whether the individual has an established medical history or clinical diagnosis of psychosis, neurosis, or any other personality or mental disorder that clearly demonstrates a potential hazard to the performance of FAM duties or the safety of self or others.

*Number of Respondents:* 600.

*Estimated Annual Burden Hours:* An estimated 600 hours annually.

Issued in Arlington, Virginia, on October 22, 2012.

**Susan L. Perkins,**

*TSA Paperwork Reduction Act Officer, Office of Information Technology.*

[FR Doc. 2012–26619 Filed 10–29–12; 8:45 am]

**BILLING CODE 9110–05–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0037]**

### Agency Information Collection Activities: Refugee/Asylee Relative Petition, Form Number I–730; Revision of a Currently Approved Collection

**ACTION:** 30-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on June 27, 2012, at 77 FR 38307, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

**DATES:** The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 29, 2012. This process is conducted in accordance with 5 CFR 1320.10.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to DHS, and to the OMB USCIS Desk Officer. Comments may be submitted to: DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140. Comments may also be submitted to DHS via email at *uscisfrcomment@uscis.dhs.gov,* to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via email at *oira_submission@omb.eop.gov* and via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0030. When submitting comments by email, please make sure to add 1615–0037 in the subject box.

All submissions received must include the agency name, OMB Control Number and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency'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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection. This is a change from the 60-day **Federal Register** Notice published at 77 FR 38307. That notice was an Extension, Without Change, of a Currently Approved Collection. The collection has been revised as a result of changes required since the 60 day notice was published that increased the time required to complete this benefit request.

(2) *Title of the Form/Collection:* Refugee/Asylee Relative Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–730; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–730 will be used by an asylee or refugee to file on behalf of his or her spouse and/or children for follow-to-join benefits provided that the relationship to the refugee/asylee existed prior to their admission to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 86,400 respondents with an estimated burden per response of .667 hours (40 minutes). This is a change from the estimated burden per response reported on the 60-day **Federal Register** Notice published at 77 FR 38307. The 60-day notice estimated that the 86,400 respondents would require an estimated burden per response of .583 hours (35 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* 57,600 Hours. This is a change from the estimated total public burden hours reported at 77 FR 38307, which estimated the total burden associated with this collection to be 50,371 hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26667 Filed 10–29–12; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0116]**

### Agency Information Collection Activities: Application for Fee Waivers and Exemption, Form Number I–912; Revision of a Currently Approved Collection

**ACTION:** 30-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of

Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on August 21, 2012 at 77 FR 50521, allowing for a 60-day public comment period. USCIS did receive comments in connection with the 60-day notice.

**DATES:** The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 29, 2012. This process is conducted in accordance with 5 CFR 1320.10.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer and to DHS. Comments should be submitted to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* All submissions received must include the agency name, OMB Control Number 1615–0116.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency'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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection; Extension.

(2) *Title of the Form/Collection:* Application for Fee Waivers and Exemption. This is a change from the information provided during the 60-day comment period for this collection.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–912; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The collection of information on Form I–912 is necessary in order for U.S. Citizenship and Immigration Services (USCIS) to make a determination that the applicant is unable to pay the application fee for certain immigration benefits.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 402,300 respondents with an estimated average burden per response of 1.17 hours. This is a change from the information provided during the 60-day comment period for this collection of information.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 470,586 Hours. This is a change from the information provided during the 60-day comment period for this collection of information.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; Telephone 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26672 Filed 10–29–12; 8:45 am]

BILLING CODE 9111–97–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0005]**

### Agency Information Collection Activities: Application for Family Unity Benefits, Form I–817, Revision of a Currently Approved Collection

**ACTION:** 60-Day Notice.

The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until December 31, 2012.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the DHS, USCIS, Office of Policy and Strategy, Laura Dawkins, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529. Comments may also be submitted via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2009–0021.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal Web site at *http://www.Regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or that is

offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.Regulations.gov*.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Family Unity Benefits.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–817, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary*: Individuals or Households. The information collected will be used to determine whether the applicant meets the eligibility requirements for benefits under 8 CFR 236.14 and 245a.33.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,384 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,768 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal Web site at: *http://www.Regulations.gov*.

We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26679 Filed 10–29–12; 8:45 am]

**BILLING CODE 9111–97–P**

---

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0020]**

### Agency Information Collection Activities: Petition for Amerasian, Widow(er), or Special Immigrant, Form I–360; Revision of a Currently Approved Collection

**ACTION:** 60-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act (PRA) of 1995, this information collection notice is published in the **Federal Register** to obtain comments for 60 days regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments. During this 60-day period USCIS will be evaluating whether to revise the Form I–360. Should USCIS decide to revise the Form I–360 it will advise the public when it publishes the 30-day notice in the **Federal Register** in accordance with the PRA. The public will then have 30-days to comment on any revisions to the Form I–360.

**DATES:** Comments are encouraged and will be accepted for 60 days until December 31, 2012.

**ADDRESSES:** Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to DHS using one of the following methods: (1) By mail to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; (2) by email to *USCISFRComment@uscis.dhs.gov;* or (3) via the Federal eRulemaking Portal Web site at *www.Regulations.gov* under e-Docket ID number USCIS–2007–0024. All submissions received must include the OMB Control Number 1615–0015 in the subject box, the agency name and Docket ID.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.Regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.Regulations.gov.*

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Amerasian, Widow(er), or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–360; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This information collection is used by several prospective classes of aliens who intend to establish their eligibility to immigrate to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 7,882 responses at 2.08 hours per response, 6,381 responses at 3.08 hours per response, and 4,504 at 2.33 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 68,499.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *www.Regulations.gov.* We may also be contacted at: DHS, USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26683 Filed 10–29–12; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0051]**

### Agency Information Collection Activities: Monthly Report on Naturalization Papers, Form Number N–4; Extension, Without Change, of a Currently Approved Collection

**ACTION:** 30-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on July 16, 2012, at 77 FR 41796, allowing for a 60-day public comment period. USCIS received one comment in connection with the 60-day notice and acknowledges receipt in item 8 of the supporting statement.

**DATES:** The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 29, 2012. This process is conducted in accordance with 5 CFR 1320.10.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB USCIS Desk Officer and to DHS. Comments should be submitted to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via email at *oira_submission@omb.eop.gov.* Comments may also be submitted to DHS by using one of the following methods: via mail to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; via email to *USCISFRComment@uscis.dhs.gov;* or via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2005–0032. When submitting comments by email, please make sure to add 1615–0051 in the subject box. All submissions received must include the agency name, OMB Control Number and e-Docket ID.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.Regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.Regulations.gov.*

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency'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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Monthly Report on Naturalization Papers.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–4; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State or local Governments. Section 339 of the Immigration and Nationality Act requires that the clerk of each court that administers the oath of allegiance notify USCIS of all persons to whom the oath of allegiance for naturalization is administered, within 30 days after the close of the month in which the oath was administered. This form provides a format listing the number of those persons to USCIS and provides accountability for the delivery of the certificates of naturalization as required under that section of law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 160 respondents at 12 responses annually at 30 minutes (0.5) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 960 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; Telephone 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26691 Filed 10–29–12; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0100]**

### Agency Information Collection Activities: Request for the Return of Original Documents, Form Number G–884; Extension, Without Change, of a Currently Approved Collection

**ACTION:** 30-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on August 8, 2012, at 77 FR 47426, allowing for a 60-day public comment period. USCIS did not receive any comments in response to the 60-day notice.

**DATES:** The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 29, 2012. This process is conducted in accordance with 5 CFR 1320.10.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB USCIS Desk Officer and to DHS. Comments should be submitted to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via email at *oira_submission@omb.eop.gov.* Comments may be also be submitted to DHS by using one of the following methods: via mail to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; via email to *USCISFRComment@uscis.dhs.gov;* or via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2008–0010. When submitting comments by email, please make sure to add the OMB Control Number 1615–0100 in the subject box. All submissions received must include the agency name, OMB Control Number and e-Docket ID.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.Regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.Regulations.gov.*

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency'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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for the Return of Original Documents.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–884; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information will be used by USCIS to determine whether a person is eligible to obtain original document(s) contained in an alien file.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 7,500.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,750.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.Regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; Telephone 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26689 Filed 10–29–12; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0015]**

### Agency Information Collection Activities: Immigrant Petition for Alien Worker, Form I–140; Revision of a Currently Approved Collection

**ACTION:** 60-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites

the general public and other Federal agencies to comment upon this proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act (PRA) of 1995, this information collection notice is published in the **Federal Register** to obtain comments for 60 days regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments. During this 60-day period, USCIS will be evaluating whether to revise the Form I–140. Should USCIS decide to revise the Form I–140 it will advise the public when it publishes the 30-day notice in the **Federal Register** in accordance with the PRA. The public will then have 30-days to comment on any revisions to the Form I–140.

**DATES:** Comments are encouraged and will be accepted for 60 days until December 31, 2012 .

**ADDRESSES:** Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to DHS using one of the following methods: (1) By mail to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020; (2) by email to *USCISFRComment@uscis.dhs.gov;* or (3) via the Federal eRulemaking Portal Web site at *www.Regulations.gov* under e-Docket ID number USCIS–2007–0018. All submissions received must include the OMB Control Number 1615–0015 in the subject box, the agency name and Docket ID.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.Regulations.gov* in the e-Docket, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.Regulations.gov.*

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigrant Petition for Alien Worker.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–140; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. The information furnished on Form I–140 will be used by USCIS to classify aliens under sections 203(b)(1), 203(b)(2) or 203(b)(3) of the Immigration and Nationality Act (Act).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 81,678 responses at 1.08 hours (1 hour and 5 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 88,212.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *www.Regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26686 Filed 10–29–12; 8:45 am]

BILLING CODE 9111–97–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0053]**

### Agency Information Collection Activities: Request for Certification of Military or Naval Service, Form Number N–426; Extension, Without Change, of a Currently Approved Collection

**ACTION:** 60-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for sixty days until December 31, 2012.

**ADDRESSES:** Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to: DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020. Comments may be submitted to DHS via email at *uscisfrcomment@uscis.dhs.gov* and must include OMB Control Number 1615–0053 in the subject box. Comments may also be submitted via

the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2007–0015.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

*Note:* The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency'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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension, without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–426; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information collected through Form N–426 to request a verification of the military or naval service claim by an applicant filing for naturalization on the basis of honorable service in the U.S. armed forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10,000 respondents for form N–426 with an estimate of .333 hours per response; 10,000 respondents for the biometric processing with an estimate of 1.17 hours per response.

*(6) An estimate of the total public burden (in hours) associated with the collection:* 15,030 hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26680 Filed 10–29–12; 8:45 am]

**BILLING CODE 9111–97–P**

---

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0038]**

### Agency Information Collection Activities: Petition To Remove the Conditions on Residence, Form Number I–751; Revision of a Currently Approved Collection

**ACTION:** 60-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond) including the time burden incurred by persons who assist the respondent with the preparation of the form or the cost to the respondent to obtain such assistance, and any time burden associated with the obtaining of supporting documents translated into English and/or the cost for this, the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for sixty days until December 31, 2012.

**ADDRESSES:** Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to: DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2020. Comments may be submitted to DHS via email at *uscisfrcomment@uscis.dhs.gov* and must include OMB Control Number 1615–0038 in the subject box. Comments may also be submitted via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2009–0008.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual

case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency'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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition to Remove the Conditions on Residence.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–751; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This form is used by USCIS to verify the petitioner's status and determine whether the conditional resident is eligible to have his or her status removed.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 140,513 with an estimated time burden per response of 3.333 hours for the form I–751 and an estimated time burden per response of 1.17 hours for the biometric processing.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 632,730 Hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26676 Filed 10–29–12; 8:45 am]

BILLING CODE 9111–97–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0028]**

### Agency Information Collection Activities: Petition To Classify Orphan as an Immediate Relative, Form I–600; Application for Advance Processing of Orphan Petition, Form I–600A; Listing of Adult Member of the Household, Supplement 1; Revision of a Currently Approved Collection

**ACTION:** 60-Day Notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for sixty days until December 31, 2012.

**ADDRESSES:** Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to: DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2020. Comments may be submitted to DHS via email at *uscisfrcomment@uscis.dhs.gov* and must include OMB Control Number 1615–0028 in the subject box. Comments may also be submitted via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2008–0020.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

**Note:** The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency'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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Forms/Collections:* Petition to Classify Orphan as an Immediate Relative; Application for Advance Processing of Orphan Petition; Listing of Adult Member of the Household.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection: Form I–600, Form I–600A and Supplement 1;* USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses Form I–600 to determine whether a child alien is an eligible orphan. Form I–600A is used to streamline the procedure for advance processing of orphan petitions. Supplement 1 is to be completed by every adult member (age 18 and older), who lives in the home of the prospective adoptive parent(s), except for the spouse of the applicant/petitioner.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

—Form I–600 respondents estimated at 3,277. The estimated average burden per response is .50 hours (30 minutes).

—Form I–600A respondents estimated at (4,699). The estimated average burden per response is .50 hours (30 minutes).

—Supplement 1 respondents estimated at (2,500). The estimated average burden per response is .25 hours (15 minutes).

—Biometrics Respondents estimated at (20,000). The estimated average burden per response is 1.17 hours.

*(6) An estimate of the total public burden (in hours) associated with the collection:* 28,013 annual burden hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: October 25, 2012.

**Laura Dawkins,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2012–26669 Filed 10–29–12; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5603–C–74]**

## Notice of Submission of Proposed Information Collection to OMB; Indian Housing Block Grants (IHBG) Program Reporting

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice; correction.

**SUMMARY:** On October 23, 2012 at 77 FR 64820 HUD published an information collection notice entitled ''Indian Housing Block Grants Program Reporting''. The following information is a correction to the previous notice publish October 23, 2012.

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.

Indian tribes, Alaska Natives, Native Hawaiians, or tribally designated housing entities that receive IHBG funds are required annually to submit HUD–52737 that consists of two components: the Indian Housing Plan (IHP) component and the Annual Performance Report (APR) component.

The IHP is required by Section 102 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and describes the eligible IHBG-funded, affordable housing activities the recipient plans to conduct for the benefit of low and moderate income tribal members and identifies the intended outcomes and outputs for the upcoming 12-month year. The recipient submits the IHP at least 75 days prior to the beginning of its 12-month program year. HUD conducts a limited review of the IHP to determine that the planned activities are in compliance with NAHASDA requirements, as defined at 24 CFR Part 1000.

At the end of the 12-month period, the recipient submits the APR that is required by Section 404 of NAHASDA and describes (1) the use of grant funds during the prior 12-month period; (2) the actual outcomes and outputs achieved; (3) program accomplishments; and (4) jobs supported by IHBG-funded activities. HUD uses the information in the APR to review the recipient's progress in implementing the IHP, verify whether the activities are eligible and to determine if the recipient has the capacity to continue implementing the activities described in the IHP in a timely manner. The information in the APR also will be used to provide Congress, stakeholders, and other interested parties with information on how the IHBG funds are being used to meet affordable housing needs within Native American communities.

The IHP/APR is currently available in a Word version. With this submission HUD intends to make available a revised Word version, an Excel version, and a version on HUD's Energy and Performance Information Center (EPIC) Web site. All three versions of the IHP/APR request the same information and a recipient may elect to submit to HUD either the Word, Excel, or EPIC versions; however, the Excel and EPIC versions are preferred because of their automated capabilities and reduced burden. The Word, Excel, and EPIC versions differ from the current version of HUD–52737 with the elimination of Line 1 (Planned Grant-Based Budget for Eligible Programs) in Section 5 (Budgets) because collection of this information served no valid purpose.

Participants in the IHBG program are responsible for notifying HUD of changes to the Formula Current Assisted Stock (FCAS) component of the IHBG formula. HUD is notified of changes in the FCAS through a *Formula Response Form* (HUD–4117), as defined at 24 CFR 1000.302. A tribe, TDHE, or HUD may challenge the data from the U.S. Decennial Census or provide an alternative source of data by submitting the *Guidelines for Challenging U.S. Decennial Census Data Document* (HUD–4119). Census challenges are due March 30th of each fiscal year, as defined at 24 CFR 1000.336. This information collection is required of participants in the IHBG program to demonstrate compliance with eligibility and other requirements of NAHASDA; provision of correction or challenge documentation of the formula calculation; and provision of data for HUD's annual report to Congress. The information gathered will be used to allocate funds under the IHBG program. The quality assurance of data reported is a very important issue in maintaining HUD's databases used to monitor participant's proposed plans, accomplishments, determine program compliance, and to ensure fair and equitable allocations. In some cases, the

FCAS information addressing the conveyances and conversions of units has resulted in the recouping of funds. The information collected will allow HUD to accurately audit the program.

**DATES:** *Comments Due Date: November 29, 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 (2577–0218) 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:* Indian Housing Block Grants (IHBG) Program Reporting.

*OMB Approval Number:* 2577–0218.

*Form Numbers:* HUD 4117, HUD 4117, HUD–4119, HUD 52737 (Excel), HUD 52737 (EPIC).

Description of the need for the information and proposed use:

Indian tribes, Alaska Natives, Native Hawaiians, or tribally designated housing entities that receive IHBG funds are required annually to submit HUD–52737 that consists of two components: the Indian Housing Plan (IHP) component and the Annual Performance Report (APR) component.

The IHP is required by Section 102 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and describes the eligible IHBG-funded, affordable housing activities the recipient plans to conduct for the benefit of low and moderate income tribal members and identifies the intended outcomes and outputs for the upcoming 12-month year. The recipient submits the IHP at least 75 days prior to the beginning of its 12-month program year. HUD conducts a limited review of the IHP to determine that the planned activities are in compliance with NAHASDA requirements, as defined at 24 CFR Part 1000.

At the end of the 12-month period, the recipient submits the APR that is required by Section 404 of NAHASDA and describes (1) the use of grant funds during the prior 12-month period; (2) the actual outcomes and outputs achieved; (3) program accomplishments; and (4) jobs supported by IHBG-funded activities. HUD uses the information in the APR to review the recipient's progress in implementing the IHP, verify whether the activities are eligible and to determine if the recipient has the capacity to continue implementing the activities described in the IHP in a timely manner. The information in the APR also will be used to provide Congress, stakeholders, and other interested parties with information on how the IHBG funds are being used to meet affordable housing needs within Native American communities.

The IHP/APR is currently available in a Word version. With this submission HUD intends to make available a revised Word version, an Excel version, and a version on HUD's Energy and Performance Information Center (EPIC) Web site. All three versions of the IHP/APR request the same information and a recipient may elect to submit to HUD either the Word, Excel, or EPIC versions; however, the Excel and EPIC versions are preferred because of their automated capabilities and reduced burden. The Word, Excel, and EPIC versions differ from the current version of HUD–52737 with the elimination of Line 1 (Planned Grant-Based Budget for Eligible Programs) in Section 5 (Budgets) because collection of this information served no valid purpose.

Participants in the IHBG program are responsible for notifying HUD of changes to the Formula Current Assisted Stock (FCAS) component of the IHBG formula. HUD is notified of changes in the FCAS through a *Formula Response Form* (HUD–4117), as defined at 24 CFR § 1000.302. A tribe, TDHE, or HUD may challenge the data from the U.S. Decennial Census or provide an alternative source of data by submitting the *Guidelines for Challenging U.S. Decennial Census Data Document* (HUD–4119). Census challenges are due March 30th of each fiscal year, as defined at 24 CFR 1000.336. This information collection is required of participants in the IHBG program to demonstrate compliance with eligibility and other requirements of NAHASDA; provision of correction or challenge documentation of the formula calculation; and provision of data for HUD's annual report to Congress. The information gathered will be used to allocate funds under the IHBG program. The quality assurance of data reported is a very important issue in maintaining HUD's databases used to monitor participant's proposed plans, accomplishments, determine program compliance, and to ensure fair and equitable allocations. In some cases, the FCAS information addressing the conveyances and conversions of units has resulted in the recouping of funds. The information collected will allow HUD to accurately audit the program.

| | Number of respondents | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| Reporting Burden | 579 | 2.290 | | 36.325 | | 48,168 |

*Total estimated burden hours:* 48,168.

*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. 2012–26564 Filed 10–29–12; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Osage Negotiated Rulemaking Committee

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of meetings.

**SUMMARY:** In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, the U.S. Department of the Interior, Bureau of Indian Affairs, Osage Negotiated Rulemaking Committee will meet as indicated below.

**DATES:** *Meetings:* The meetings will be held as follows: Tuesday, November 13, 2012, from 9 a.m. to 6 p.m.; and Thursday, December 13, 2012, and Friday, December 14, 2012, from 9 a.m. to 6 p.m.

**ADDRESSES:** *November Meeting:* Osage Minerals Council Chambers, 813 Grandview Place, Pawhuska, Oklahoma 74056; *December Meeting:* Wah Zha Zhi Cultural Center, 1449 W. Main, Pawhuska, Oklahoma 74056.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eddie Streater, Designated Federal Officer, Bureau of Indian Affairs, Wewoka Agency, P.O. Box 1540, Seminole, OK 74818; telephone (405) 257–6250; fax (405) 257–3875; or email *osageregneg@bia.gov.* Additional Committee information can be found at: *http://www.bia.gov/osageregneg.*

**SUPPLEMENTARY INFORMATION:** On October 14, 2011, the United States and the Osage Nation (formerly known as the Osage Tribe) signed a Settlement Agreement to resolve litigation regarding alleged mismanagement of the Osage Nation's oil and gas mineral estate, among other claims. As part of the Settlement Agreement, the parties agreed that it would be mutually beneficial ''to address means of improving the trust management of the Osage Mineral Estate, the Osage Tribal Trust Account, and Other Osage Accounts.'' Settlement Agreement, Paragraph 1.i. The parties agreed that a review and revision of the existing regulations is warranted to better assist the Bureau of Indian Affairs (BIA) in managing the Osage Mineral Estate. The parties agreed to engage in a negotiated rulemaking for this purpose. Settlement Agreement, Paragraph 9.b. After the Committee submits its report, BIA will develop a proposed rule to be published in the **Federal Register**.

*Meeting Agenda:* The meeting agenda will include (1) Welcome and Introduction; (2) Overview of prior meeting and action tracking; (3) Members' round robin to share information and identify key issues to be addressed; (4) Committee Members' review and discussion of subcommittee activities; (5) Future Committee activities; (6) Public comments which will be scheduled for 45 minutes in the morning and again in the afternoon; and (7) closing remarks. The final agenda will be posted on *www.bia.gov/osagenegreg* prior to each meeting.

*Public Input:* All Committee meetings are open to the public. Interested members of the public may present, either orally or through written comments, information for the Committee to consider during the public meeting. Written comments should be submitted, prior to, during, or after the meeting, to Mr. Eddie Streater, Designated Federal Officer, preferably via email, at *osagenegneg@bia.gov,* or by U.S. mail to: Mr. Eddie Streater, Designated Federal Officer, Bureau of Indian Affairs, Wewoka Agency, P.O. Box 1540, Seminole, OK 74818. Due to time constraints during the meeting, the Committee is not able to read written public comments submitted into the record.

Individuals or groups requesting to make oral comments at the public Committee meeting will be limited to 5 minutes per speaker. Speakers who wish to expand their oral statements, or those who had wished to speak, but could not be accommodated during the public comment period, are encouraged to submit their comments in written form to the Committee after the meeting at the address provided above. There will be a sign-up sheet at the meeting for those wishing to speak during the public comment period.

The meeting location is open to the public. Space is limited, however, so we strongly encourage all interested in attending to preregister by submitting your name and contact information via email to Mr. Eddie Streater at *osageregneg@bia.gov.* Persons with disabilities requiring special services, such as an interpreter for the hearing impaired, should contact Mr. Streater at (405) 257–6250 at least seven calendar days prior to the meeting. We will do our best to accommodate those who are unable to meet this deadline.

Dated: October 24, 2012.

**Michael S. Black,**

*Director, Bureau of Indian Affairs.*

[FR Doc. 2012–26624 Filed 10–29–12; 8:45 am]

**BILLING CODE 4310–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 701–TA–485 (Final)]**

### Circular Welded Carbon-Quality Steel Pipe From Vietnam; Termination of Investigation

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** On October 22, 2012, the Department of Commerce published notice in the **Federal Register** of a negative final determination of subsidies in connection with the subject investigation (77 FR 64471). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the countervailing duty investigation concerning circular welded carbon-quality steel pipe from Vietnam (investigation No. 701–TA–485 (Final)) is terminated.

**DATES:** Effective October 22, 2012.

**FOR FURTHER INFORMATION CONTACT:** Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 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.*

**Authority:** This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: October 24, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012–26549 Filed 10–29–12; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–860]**

## Certain Optoelectronic Devices for Fiber Optic Communications, Components Thereof, and Products Containing the Same; Notice of Institution of Investigation

Institution of investigation pursuant to 19 U.S.C. 1337.

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 25, 2012, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Avago Technologies Fiber IP (Singapore) Pte. Ltd. of Singapore; Avago Technologies General IP (Singapore) Pte. Ltd. of Singapore; and Avago Technologies U.S. Inc. of San Jose, California. Letters supplementing the complaint were filed on October 4, October 16, and October 17, 2012. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain optoelectronic devices for fiber optic communications, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent No. 6,947,456 (''the '456 patent'') and U.S. Patent No. 5,596,595 (''the '595 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *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.*

**FOR FURTHER INFORMATION CONTACT:** The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2012).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on October 24, 2012, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain optoelectronic devices for fiber optic communications, components thereof, and products containing the same that infringe one or more of claims 1, 2, 4, 6–8, 11–13, 15, and 20–24 of the '456 patent and claims 14, 17, and 19 of the '595 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Avago Technologies Fiber IP, (Singapore) Pte. Ltd., 1 Yishun Avenue 7, Singapore 768923.

Avago Technologies General IP, (Singapore) Pte. Ltd., 1 Yishun Avenue 7, Singapore 768923.

Avago Technologies U.S. Inc., 350 West Trimble Road, Building 90, San Jose, CA 95131.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

IPtronics A/S, Langebjergvaenget 8B st, DK–40000 Roskilde, Denmark.

IPtronics Inc., 1370 Willow Road, Menlo Park, CA 94025.

FCI USA, LLC, 825 Old Trail Road, Etters, PA 17319.

FCI Deutschland GmbH, 175 Holzhauser Str, Floor E, Berlin 13509, Germany.

FCI SA, Immeuble Calypso, 18 Parc Ariane III, 3–5 Rue Alfred Kastler, 78280 Guyancourt, France.

Mellanox Technologies, Inc., 350 Oakmead Parkway, Suite 100, Sunnyvale, CA 94085.

Mellanox Technologies Ltd., Beit Mellanox, Yokneam, Israel 20692.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 25, 2012.

**Lisa R. Barton,**

*Acting Secretary to the Commission.*

[FR Doc. 2012–26631 Filed 10–29–12; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On October 23, 2012, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Hawaii in the lawsuit entitled *United States* v. *County of Maui, Hawaii,* Civil Action No. CV 12 00571 LEK RLP.

In this action, the United States filed a complaint under the Clean Air Act alleging violations at the Central Maui Municipal Solid Waste Landfill located on the island of Maui in Hawaii. The consent decree requires the County to implement injunctive relief including conducting enhanced gas monitoring, complying with interim wellhead temperature limits and implementing fire response procedures. The consent decree also requires the County to pay a civil penalty of $380,000 and to perform a Supplemental Environmental Project (''the SEP''). The SEP requires the County to install and operate at least eight wind turbines at the Landfill property.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *County of Maui, Hawaii,* D.J. Ref. No. 90–5–2–1–09360. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| To submit comments: | Send them to: |
|---|---|
| By email ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC. 20044–7611. |

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $14.25 (25 cents per page reproduction cost) payable to the United States Treasury.

**Henry Friedman,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2012–26551 Filed 10–29–12; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[OMB Number 1117–0034]**

### Agency Information Collection Activities: Proposed Collection; Comments Requested:

Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local Government) Crime Laboratories

**ACTION:** 60-Day notice of information collection under review.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until December 31, 2012. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Gallagher, Chief, Liaison and Policy Section, Drug Enforcement Administration, Office of Diversion Control, 8701 Morrissette Drive, Springfield, VA 22152.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local Government) Crime Laboratories.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:*

*Form Number:* none.

Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* State, Local or Tribal Government.

*Other:* None.

*Abstract:* Information is needed from state and local laboratories to provide DEA with additional analyzed drug information for the National Forensic Laboratory Information System.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that there are one hundred forty (140) total respondents for this information collection. One hundred thrity-four (134) respond monthly at .13 hour (8 minutes) for each response and six (6) respond quarterly at .13 hour (8 minutes) for each response, for a total number of 1632 responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that there are 218 annual burden hours associated with this collection.

*If additional information is required contact:* Jerri Murray, Department

Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Two Constitution Square, 145 N Street NE., Suite 3W–1407B, Washington, DC 20530.

Dated: October 25, 2012.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2012–26610 Filed 10–29–12; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submissions for OMB Review; Comment Request; H–2A Foreign Labor Certification Program; Labor Certification Letter for H–2A Agricultural Foreign Workers, H–2B Foreign Labor Certification Program; and Application for Prevailing Wage Determination

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting four related Employment and Training Administration (ETA) sponsored information collection requests (ICRs) 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.*). The ICR titles are H–2A Foreign Labor Certification Program, Labor Certification Letter for H–2A Agricultural Foreign Workers, H–2B Foreign Labor Certification Program, and Application for Prevailing Wage Determination.

**DATES:** Submit comments on or before November 29, 2012.

**ADDRESSES:** A copy of these ICRs 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 these requests to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, 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:** The Immigration and Nationality Act (INA) requires the Secretary of Labor to certify, among other things, that any foreign worker seeking to enter the United States (U.S.) to perform certain skilled or unskilled labor will not, by doing so, adversely affect wages and working conditions of U.S. workers similarly employed. The Secretary must also certify that there are not sufficient U.S. workers able, willing, and qualified to perform such skilled or unskilled labor. Before any employer may petition for any temporary skilled or unskilled foreign workers, it must submit a request for certification to the Secretary containing the elements prescribed by the INA and regulations. *See* 8 U.S.C. 1011(a)(15)(H)(ii)(a), 1011(a)(15)(H)(ii)(b), 1184(c), and 1188 and 8 CFR 214.2(h).

The DOL currently obtains OMB approval for the subject information collections under Control Numbers 1205–0466, Foreign Labor Certification Instruments, and 1205–0404, Labor Certification Letter for H–2A Agricultural Foreign Workers. In order to improve internal administration of the information collection requirements, the DOL is taking this opportunity to rename OMB Control Number 1205–0466 and to separate out the three different sets of information collection requirements under three unique Control Numbers. While the Department believes it must now submit the information collections approved under Control Number 1205–0404 and 1205–0466 as separate ICRs, in order to maintain OMB clearance for the existing requirements, the DOL intends to merge the ICRs via a non-material change request to the 1205–0466 ICR. Such a request would be made upon receiving OMB approval of the current actions and would not change the information collection requirements in any way; the DOL would simultaneously seek to discontinue Control Number 1205–0404.

The first of current actions being submitted for OMB approval is revised Control Number 1205–0466 that will contain Form ETA–9142A, *H–2A Application for Temporary Employment Certification* and *Appendix A;* and most regulatory information collection requirements applicable to the H–2A program. The H–2A program enables employers to bring nonimmigrant foreign workers to the U.S. to perform agricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101(a)(15)(H)(ii)(a). Information obtained on Form ETA–9142A provides the basis for the Secretary's determination whether no U.S. workers are available. Form ETA–9142A, collects information to permit the Department to meet its statutory responsibilities for administering the H–2A temporary labor certification program.

The second current ICR being submitted for OMB approval is Control Number 1205–0404, which specifically has to do with the notification requirements of the 50 percent rule in the H–2A program and is being submitted without changes. Regulations 20 CFR 655.135(d) stipulates that an employer must continue to provide employment to any qualified and eligible U.S. worker who applies to the employer until 50 percent of the work contract period, under which the foreign worker is in the job, has elapsed. The notification required under the regulations at 20 CFR 655.135(c) is written by the employer and sent to the applicable State Workforce Agency (SWA), if the foreign worker begins traveling to the employer's place of work any time after the three days prior to the first date of need specified in the work contract. The SWA uses the information to calculate the end of the 50 percent rule referral requirements. The regulations also specify other notifications the employer must make (e.g., remind the worker of the requirement to leave the U.S. at the end of the certified period for work or upon separation from the employer, unless the worker is being sponsored by a subsequent employer; and informing the DOL of H–2A workers who have abandoned their jobs or been terminated). The ETA uses Form ETA–9144 to inform employers of these obligations.

The first new ICR the DOL is currently submitting has been issued ICR Reference Number 201210–1205–001, H–2B Foreign Labor Certification Program. This new ICR will contain forms and most regulatory information collection requirements applicable to the H–2B program. Specifically, it will contain Form ETA 9142B, *H–2B Application for Temporary Employment Certification* and *Appendix B.*

The second new ICR the DOL is submitting has been assigned ICR Reference Number 201210–1205–002, Application for Prevailing Wage Determination, will contain Form ETA–

9141, *Application for Prevailing Wage Determination.* That form is applicable to the H–2B, H–1B, H–1B1, E–3, and PERM programs.

On April 8, 2012, the OMB approved changes to the information collected under Control Number 1205–0466, in accordance with the 2012 H–2B final rule published on February 21, 2012 (77 FR 10038). On April 27, 2012, the DOL received from the OMB a six-month approval to revert to the old information collection requirements. The approval allowed the ETA to comply with a Federal Court for the Northern District of Florida, Pensacola Division, injunction preventing the DOL from implementing the 2012 H–2B Final Rule. (*Bayou Lawn & Landscape Services, et al.* v. *Hilda L. Solis, et al.,* 12-cv-00183–RV–CJK.). With minor format changes (e.g., form names), these ICRs maintain the existing requirements.

The information collections covered in this notice are 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 current approval for both existing Control Numbers is scheduled to expire on October 31, 2012; however, it should be noted that existing information collections submitted to the OMB receive a month-to-month extension while they undergo review. Changes only take effect upon OMB authorization. For additional information, see the related notice published in the **Federal Register** on August 15, 2012 (77 FR 49025).

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 the applicable OMB Control Number or ICR Reference Number as shown in the information collection listing at the end of this notice. 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.

The ICRs are summarized as follows:

*Agency:* DOL–ETA.

*Title of Collection:* Labor Certification Letter for H–2A Agricultural Foreign Workers.

*OMB Control Number:* 1205–0404.

*ICR Type:* Extension without changes of a currently approved collection.

*Affected Public:* Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

*Total Estimated Number of Respondents:* 361.

*Total Estimated Number of Responses:* 361.

*Total Estimated Annual Burden Hours:* 90.

*Total Estimated Annual Other Costs Burden:* $0.

*Title of Collection:* H–2A Foreign Labor Certification Program.

*OMB Control Number:* 1205–0466.

*ICR Type:* Revision of a currently approved collection.

*Affected Public:* Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

*Total Estimated Number of Respondents:* 7,218.

*Total Estimated Number of Responses:* 147,856.

*Total Estimated Annual Burden Hours:* 44,084.

*Total Estimated Annual Other Costs Burden:* $1,529,370.

*Title of Collection:* H–2B Foreign Labor Certification Program.

*ICR Reference Number:* 201210–1205–001.

*ICR Type:* Request for new OMB Control Number.

*Affected Public:* Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

*Total Estimated Number of Respondents:* 5,387.

*Total Estimated Number of Responses:* 32,686.

*Total Estimated Annual Burden Hours:* 15,333.

*Total Estimated Annual Other Costs Burden:* 0.

*Title of Collection:* Application for Prevailing Wage Determination.

*ICR Reference Number:* 201210–1205–002.

*ICR Type:* Request for new OMB Control Number.

*Affected Public:* Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

*Total Estimated Number of Respondents:* 461,177.

*Total Estimated Number of Responses:* 890,501.

*Total Estimated Annual Burden Hours:* 398,833.

*Total Estimated Annual Other Costs Burden:* $29,776,872.

Dated: October 24, 2012.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2012–26587 Filed 10–29–12; 8:45 am]

**BILLING CODE 4510–PN–P**

---

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reemployment and Eligibility Assessment Program

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) extension titled, ''Reemployment and Eligibility Assessment Program,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

**DATES:** Submit comments on or before November 29, 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–ETA, 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:** The Social Security Act authorizes the DOL to prescribe standard definitions, methods and procedures, and reporting requirements for the collection of information on benefit payment accuracy and the reemployment of unemployment insurance benefit recipients to ensure the verification of these data. The DOL uses information collected on Forms ETA–9128, 9128U, and ETA–9129 to evaluate State performance in terms of service delivery and to report on the REAs, including the number of scheduled in-person reemployment and eligibility assessments, the number of individuals who failed to appear for scheduled assessments, actions taken as a result of individuals not appearing for an assessment (e.g., benefits termination), results of assessments (e.g., referral to reemployment services, found in compliance with program requirements), estimated savings resulting from cessation of benefits, and estimated savings as a result of accelerated reemployment. Information collected on Form ETA–9128U is required by the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96.

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 it 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 1205–0456. The current approval is scheduled to expire on October 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review.

For additional information, see the related notice published in the **Federal Register** on August 13, 2012 (77 FR 48172).

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 1205–0456. 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–ETA.

*Title of Collection:* Reemployment and Eligibility Assessment Program.

*OMB Control Number:* 1205–0456.

*Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Respondents:* 53.

*Total Estimated Number of Responses:* 548.

*Total Estimated Annual Burden Hours:* 274.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: October 24, 2012.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2012–26605 Filed 10–29–12; 8:45 a.m.]

BILLING CODE 4510–FW–P

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reemployment Services and Outcomes Collection for Unemployment Insurance Claimants in Federal Programs

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Reemployment Services and Outcomes Collection for Unemployment Insurance Claimants in Federal Programs,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

**DATES:** Submit comments on or before November 29, 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–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR describes reemployment activities for Unemployment Insurance (UI) claimants in Federal programs to comply with the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96. The basic report format is very similar to reporting Form ETA–9002 (*see* OMB Control Number 1205–0240), which covers quarterly performance data for the Wagner-Peyser

Act funded public labor exchange. The ETA has well established reporting instructions, reporting software, reporting formats and reporting logic that are used with existing reemployment service delivery reporting for UI claimants, and this structure also serves UI claimants in Federal programs required by Public Law 112–96.

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 that 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 1205–0493. The current approval is scheduled to expire on October 31, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on August 13, 2012 (77 FR 48176).

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 1205–0493. 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–ETA.

*Title of Collection:* Reemployment Services and Outcomes Collection for Unemployment Insurance Claimants in Federal Programs.

*OMB Control Number:* 1205–0493.

*Affected Public:* Individuals or Households and State, Local, and Tribal Governments.

*Total Estimated Number of Respondents:* 3,500,053.

*Total Estimated Number of Responses:* 7,000,212.

*Total Estimated Annual Burden Hours:* 250,294.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: October 25, 2012.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2012–26634 Filed 10–29–12; 8:45 a.m.]

**BILLING CODE 4510–FW–P**

---

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Announcement Regarding States Triggering ''On'' and ''Off'' in the Emergency Unemployment Compensation 2008 (EUC08) Program

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** Announcement Regarding States Triggering ''on'' and ''off'' in the Emergency Unemployment Compensation 2008 (EUC08) Program.

The U.S. Department of Labor (Department) produces trigger notices indicating which states qualify for EUC08 benefits, and provides the beginning and ending dates of payable periods for each qualifying state. The trigger notices covering state eligibility for this program can be found at: *http://ows.doleta.gov/unemploy/claims_arch.asp.*

The following changes have occurred since the publication of the last notice regarding states' EUC08 trigger status:

- With the week ending September 22, 2012, Utah had served a full 13 week ''off'' period in Tier 2 of the EUC08 program. Given that the trigger rate for Utah has been at the 6.0 percent trigger rate threshold, this state met the criteria to resume a payable period in Tier 2 of the EUC08 program. This payable period started with the week beginning September 23, 2012. For claimants establishing new eligibility in Tier 2, the maximum potential entitlement in Tier 2 is the lesser of 54 percent of the maximum regular Unemployment Compensation (UC) entitlement or 14 times the regular UC weekly benefit amount.
- With the week ending September 22, 2012, West Virginia and Wisconsin had both served a full 13 week ''off'' period in Tier 3 of the EUC08 program. Given that the trigger rate for these states had been at or above the 7.0 percent trigger rate threshold, these states met the criteria to resume a payable period in Tier 3 of the EUC08 program. The payable period for these states started with the week beginning September 23, 2012. For claimants establishing new eligibility in Tier 3, the maximum potential entitlement in Tier 3 is the lesser of 35 percent of the maximum regular UC entitlement or 9 times the regular UC weekly benefit amount.
- With the release of national unemployment data by the Bureau of Labor Statistics on September 21, 2012, the estimated three month average, seasonally adjusted total unemployment rate for Maryland met the 7.0 percent threshold necessary to trigger ''on'' in Tier 3 of the EUC08 program. For claimants establishing new eligibility in Tier 3, the maximum potential entitlement is the lesser of 35 percent of the maximum regular UC entitlement or 9 times the regular UC weekly benefit amount. The week beginning October 7, 2012, will be the first week in which EUC08 claimants in Maryland who have exhausted Tier 2, and are otherwise eligible, can establish Tier 3 eligibility.
- With the release of national unemployment data by the Bureau of Labor Statistics on September 21, 2012, the estimated three month average, seasonally adjusted total unemployment rate for Michigan met the 9.0 percent threshold necessary to trigger ''on'' in Tier 4 of the EUC08 program. For claimants establishing new eligibility in Tier 4, the maximum potential entitlement in Tier 4 is the lesser of 24 percent of the maximum regular UC entitlement or 6 times the regular UC weekly benefit amount. The week beginning October 7, 2012, will be the first week in which EUC08 claimants in Michigan who have exhausted Tier 3, and are otherwise eligible, can establish Tier 4 eligibility.
- With the week ending October 6, 2012, Texas will have served a full 13 week ''off'' period in Tier 3 of the EUC08 program. Given that the trigger rate for Texas is currently at or above the 7.0 percent trigger rate threshold, and no more unemployment rates will be released before October 19, 2012,

Texas will meet the criteria to resume a payable period in Tier 3 of the EUC08 program. This payable period will start with the week beginning October 7, 2012. For claimants establishing new eligibility in Tier 3, the maximum potential entitlement is the lesser of 35 percent of the maximum regular UC entitlement or 9 times the regular UC weekly benefit amount.

• With the week ending October 6, 2012, Georgia and Mississippi will have served a full 13 week ''off'' period in Tier 4 of the EUC08 program. Given that the trigger rate for these states is currently at or above the 9.0 percent trigger rate threshold, and no more unemployment rates will be released before October 19, 2012, Georgia and Mississippi will meet the criteria to resume a payable period in Tier 4 of the EUC08 program. The payable period will start with the week beginning October 7, 2012. For claimants establishing new eligibility in Tier 4, the maximum potential entitlement in Tier 4 is the lesser of 24 percent of the maximum regular UC entitlement or 6 times the regular UC weekly benefit amount.

• Based on data released by the Bureau of Labor Statistics on September 21, 2012, the three month average, seasonally adjusted total unemployment rate for the District of Columbia fell below the 9.0 percent trigger rate threshold to remain ''on'' in Tier 4 of the EUC08 program. As a result, entitlement for claimants in the District of Columbia in the EUC08 program will decrease from a maximum possible duration of 47 weeks to a maximum possible duration of 37 weeks. The week ending October 13, 2012, will be the last week in which EUC claimants in the District of Columbia can exhaust Tier 3, and establish Tier 4 eligibility. Under the phase-out provisions, claimants can receive any remaining entitlement they have in Tier 4 after October 13, 2012.

**Information for Claimants**

The duration of benefits payable in the EUC08 program, and the terms and conditions under which they are payable, are governed by Public Laws 110–252, 110–449, 111–5, 111–92, 111–118, 111–144, 111–157, 111–205, 111–312, 112–96, and the operating instructions issued to the states by the Department.

In the case of a state beginning or concluding a payable period in EUC08, the State Workforce Agency will furnish a written notice of any change in potential entitlement to each individual who could establish, or had established, eligibility for benefits (20 CFR 615.13 (c)(1) and (c)(4)). Persons who believe they may be entitled to benefits under the EUC08 program, or who wish to inquire about their rights under the program, should contact their State Workforce Agency.

**FOR FURTHER INFORMATION CONTACT:** Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4524, Washington, DC 20210, telephone number (202) 693–3008 (this is not a toll-free number) or by email: *gibbons.scott@dol.gov.*

Signed in Washington, DC, this 17th day of October, 2012.

**Jane Oates,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. 2012–26586 Filed 10–29–12; 8:45 am]

**BILLING CODE 4510–FW–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (12–066)]**

### Government-Owned Inventions, Available for Licensing

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Availability of Inventions for Licensing.

**SUMMARY:** Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

**DATES:** October 30, 2012.

**FOR FURTHER INFORMATION CONTACT:** Randy Heald, Patent Counsel, Kennedy Space Center, Mail Code CC–A, Kennedy Space Center, FL 32899; telephone (321) 867–7214; fax (321) 867–1817.

NASA Case No.: KSC–13265: Inductive Position Sensor;

NASA Case No.: KSC–12539–3: Self-Healing Wire Insulation;

NASA Case No.: KSC–12978–DIV: Mechanical Alloying of a Hydrogenation Catalyst Used for the Remediation of Contaminated Compounds;

NASA Case No.: KSC–13336: Electrically Conductive Composite Material;

NASA Case No.: KSC–12871: Low-Melt Poly(Amic Acids) and Polyimides and Their Uses;

NASA Case No.: KSC–13285: Method of Fault Detection and Rerouting;

NASA Case No.: KSC–13161: Hydrophobic-Core Microcapsules and their Formation;

NASA Case No.: KSC–12890–2: Aerogel/Polymer Composite Materials;

NASA Case No.: KSC–12890–2–DIV: Aerogel/Polymer Composite Materials;

NASA Case No.: KSC–13331: A Method for Accurately Calibrating a Spectrometer Using Broadband Light;

NASA Case No.: KSC–13343: Inkjet Printing of Conductive Carbon Nanotubes, Inherently Conductive Polymers, and Metal Particle Inks;

NASA Case No.: KSC–12866: In-Situ Wire Damage Detection System;

NASA Case No.: KSC–13278: Elongated Microcapsules and their Formation;

NASA Case No.: KSC–12236–CIP: Flame Suppression Agent, System and Users;

NASA Case No.: KSC–12848–DIV: Foam/Aerogel Composite Materials for Thermal and Acoustic Insulation and Cryogen Storage;

NASA Case No.: KSC–13167: Hydrophilic-Core Microcapsules and their Formation.

**Sumara M. Thompson-King,**

*Acting Deputy General Counsel.*

[FR Doc. 2012–26573 Filed 10–29–12; 8:45 am]

**BILLING CODE P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 12–082]**

### Notice of Intent To Grant Exclusive Research License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of intent to grant exclusive research only license.

**SUMMARY:** This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive, research only license in the United States to practice the invention described and claimed in U.S. Patent Nos. 6,967,051 entitled ''Thermal Insulation Systems'' and 7,781,492 entitled ''Foam-Aerogel Composite Materials for Thermal and Acoustic Insulation and Cryogen Storage,'' to Flexure, LLC, having its principal place of business at 4423 Lehigh Road, Suite 235, College Park, Maryland 20740. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective

exclusive research license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

**DATES:** The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

**ADDRESSES:** Objections relating to the prospective license may be submitted to Patent Counsel, Office of the Chief Counsel, Mail Code CC–A, NASA John F. Kennedy Space Center, Kennedy Space Center, FL 32899. Telephone: 321–867–7214; Facsimile: 321–867–1817.

**FOR FURTHER INFORMATION CONTACT:** Randall M. Heald, Patent Counsel, Office of the Chief Counsel, Mail Code CC–A, NASA John F. Kennedy Space Center, Kennedy Space Center, FL 32899. Telephone: 321–867–7214; Facsimile: 321–867–1817. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/.*

**Sumara M. Thompson-King,**

*Deputy General Counsel.*

[FR Doc. 2012–26574 Filed 10–29–12; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permits Issued Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of a permit modification issued under the Antarctic Conservation of 1978, Public Law 95–541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of permit modificaitons issued under the Antarctic Conservation Act of 1978. This is the required notice.

**FOR FURTHER INFORMATION CONTACT:** Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

**SUPPLEMENTARY INFORMATION:** On August 22, 2012, the National Science Foundation published a notice in the **Federal Register** of a permit modification request received. The permit modification was issued on October 17, 2012 to:

David Ainley—Permit No. 2011–002 Mod. #3.

**Nadene G. Kennedy,**

*Permit Officer.*

[FR Doc. 2012–26633 Filed 10–29–12; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2012–0260]**

### Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

**Background**

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from October 4, 2012, to October 17, 2012. The last biweekly notice was published on October 16, 2012 (77 FR 63343).

**ADDRESSES:** You may access information and comment submissions related to this document, which the NRC possesses and are publicly available, by searching on *http://www.regulations.gov* under Docket ID 2012–0260. You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID 2012–0260. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**SUPPLEMENTARY INFORMATION:**

**I. Accessing Information and Submitting Comments**

*A. Accessing Information*

Please refer to Docket ID 2012–0260 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID 2012–0260.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Documents may be viewed in ADAMS by performing a search on the document date and docket number.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

*B. Submitting Comments*

Please include Docket ID 2012–0260 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that you do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in section 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not

submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) The information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–

415–4737, or by email to *pdr.resource@nrc.gov.*

*Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania*

*Date of application for amendments:* August 29, 2012.

*Description of amendment request:* The proposed amendment would add Technical Specification (TS) requirements for the Residual Heat Removal (RHR) Drywell Spray function. This function had previously resided in the TSs for Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, but was relocated to a licensee-controlled document, the Technical Requirements Manual, as part of the conversion to the improved TSs on August 30, 1995. Based on the requirements in 10 CFR 50.36, the licensee has determined that the RHR Drywell Spray function needs to be re-established in the PBAPS, Units 2 and 3, TSs.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with the NRC staff edits in square brackets:

1. Will operation of the facility in accordance with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed changes to re-establish TS requirements for the RHR Drywell Spray function is necessary based on the recognition that the current design basis description in the Updated Final Safety Analysis Report (UFSAR) does not appropriately reflect the effects of a Small Steam Line Break (SSLB) accident on peak drywell temperatures. The current design basis description describes the bounding condition based on the effects of the Design Basis Accident (DBA) Loss of Coolant Accident (LOCA), which is considered the Recirculation Suction Line Break (RSLB) accident. Since peak drywell temperatures may be higher for the SSLB accident, and the RHR Drywell Spray function is credited to limit peak drywell temperature following a SSLB, the requirements of 10 CFR 50.36(c)(2)(ii) apply. Specifically, Criterion 3 [of 10 CFR 50.36(c)(2)(ii) requires that a TS limiting condition for operation be established for items that meet the following]:

''*A structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a design basis accident or transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.*''

The proposed changes to re-establish the RHR Drywell Spray requirements in TS do not introduce new equipment or new equipment operating modes, nor do the proposed changes alter existing system relationships. The proposed changes do not affect plant operation, design function, or any analysis that verifies the capability of a Structure, System, or Component (SSC) to perform a design function. There are no changes or modifications to the RHR system. The RHR system will continue to function as designed in all modes of operation, including the Drywell Spray function. There are no significant changes to procedures or training related to the operation of the RHR Drywell Spray function. Primary containment integrity is not adversely impacted and radiological consequences from the accidents analyzed in the UFSAR are not increased. Containment parameters are not increased beyond those previously evaluated and the potential for failure of the containment is not increased.

There is no adverse impact on systems designed to mitigate the consequences of accidents. The proposed changes do not increase system or component pressures, temperatures, and flowrates for systems designed to prevent accidents or mitigate the consequences of an accident. Since these conditions do not change, the likelihood of failure of [a] SSC [to perform its intended function] is not increased.

The proposed changes do not increase the likelihood of the malfunction of any SSC or impact any analyzed accident. Consequently, the probability or consequences of an accident previously evaluated are not affected.

Based on the above, Exelon concludes that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed changes to re-establish the RHR Drywell Spray requirements in TS do not alter the design function or operation of any SSC. The RHR system will continue to function as designed in all modes of operation, including the Drywell Spray function. There is no new system component being installed, no new construction, and no performance of a new test or maintenance function. The proposed TS changes do not create the possibility of a new credible failure mechanism or malfunction. The proposed changes do not modify the design function or operation of any SSC. The proposed changes do not introduce new accident initiators. Primary containment integrity is not adversely impacted and radiological consequences from the accidents analyzed in the UFSAR are not increased. Containment parameters are not increased beyond those previously evaluated and the potential for failure of the containment is not increased. The proposed changes do not increase system or component pressures, temperatures, and flowrates for systems designed to prevent accidents or mitigate the consequences of an accident. Since these conditions do not change, the likelihood of failure of SSC is not increased. Consequently, the proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on the above discussion, Exelon concludes that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with the proposed amendment involve a significant reduction in a margin of safety?

*Response:* No.

The proposed change to re-establish TS requirements for the RHR Drywell Spray function is necessary based on the recognition that the current design basis description in the UFSAR does not appropriately reflect the effects of a SSLB accident on peak drywell temperatures. The current design basis description describes the bounding condition based on the effects of the DBA LOCA, which is considered the RSLB accident. Since peak drywell temperatures may be higher for the SSLB, and the RHR Drywell Spray function is credited to limit peak drywell temperature following a SSLB accident, the requirements of 10 CFR 50.36(c)(2)(ii) apply. Specifically, Criterion 3 [of 10 CFR 50.36(c)(2)(ii) requires that a TS limiting condition for operation be established for items that meet the following]:

''*A structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a design basis accident or transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier.*''

The proposed changes do not increase system or component pressures, temperatures, and flowrates for systems designed to prevent accidents or mitigate the consequences of an accident. Containment parameters are not increased beyond those previously evaluated and the potential for failure of the containment is not increased.

The proposed changes to re-establish the RHR Drywell Spray function in TS are needed in order to reflect the current design basis description related to the SSLB accident. The proposed changes do not exceed or alter a design basis or a safety limit for a parameter to be described or established in the UFSAR or the Renewed Facility Operating License (FOL). Consequently, the proposed changes do not result in a reduction in the margin of safety.

Based on the above, Exelon concludes that the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, and with the changes noted above in square brackets, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for Licensee:* Mr. J. Bradley Fewell, Assistant General Counsel,

Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, PA 19348.

*NRC Branch Chief:* Meena K. Khanna.

*Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Units 1 and 2, St. Lucie County, Florida.*

*Date of amendment request:* August 10, 2012.

*Description of amendment request:* The amendments would revise the technical specifications (TSs), specifically, the requirements of the TSs related to station direct current battery surveillance requirements for terminal connection resistances.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change will not result in any significant increase in the probability or consequences of an accident previously evaluated, as the proposed TS change is consistent with the methodologies adopted in the LARs [license amendment requests] recently accepted by the NRC on Wolf Creek, Catawba, and McGuire. The proposed maximum limits of the inter-cell and inter-tier resistance values are based on the resistance values obtained from the battery monitoring and maintenance programs (implemented via preventive maintenance (PM) procedures) at St. Lucie, which are based on the IEEE [Institute of Electrical and Electronics Engineers] 450 methodology to maintain the battery cells and connections. The battery monitoring and maintenance programs adopted at St. Lucie for the safety related battery inter-cell connection resistances ensure that the values remain within the required ranges of the established baseline values and will remain bounded by the proposed maximum inter-cell and inter-tier resistance values. This change does not alter any design input used in any accident analysis previously performed. The proposed change constitutes an additional limitation or restriction on the acceptable range of values of the battery inter-cell resistance required to ensure that the batteries are able to perform as designed.

Therefore, the proposed change will not increase the probability or consequences of any accident previously evaluated that involves any of the safety related batteries or associated equipment powered by these batteries.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed change does not involve a physical alteration of the plant. No new or different type of equipment will be installed. There is no change in the methods governing normal plant operation. The proposed change will not introduce new failure modes/effects which could lead to an accident whose consequences exceed the consequences of accidents previously analyzed.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The proposed change will not involve a significant reduction in a margin of safety. The proposed maximum battery inter-cell and inter-tier resistance values are based on the actual measurements obtained over the years during the 18 month preventive maintenance activities. The measured resistance values are all less than 20% above the baseline installed values, which will ensure that design limits for battery connection resistance are not exceeded. This approach is in accordance with the IEEE 450–1995, Section D.2. This methodology also provides a lower average inter-cell connection resistance limit than both the existing TS limit of 150 μΩ per cell and the vendor's design limits for each St. Lucie Unit. The proposed change to the TS constitutes an additional limitation or restriction on the acceptable range of values of the battery inter-cell resistance required to ensure that the batteries are able to perform as designed.

Thus, this proposed TS change will not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Mr. Mitchell S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

*NRC Acting Branch Chief:* Jessie F. Quichocho.

*NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa*

*Date of amendment request:* March 22, 2012.

*Description of amendment request:* The proposed amendment would revise the Duane Arnold Energy Center (DAEC) Technical Specifications (TS) by modifying existing Surveillance Requirements (SRs) regarding the battery terminal and charger voltages and amperage provided in SR 3.8.4.1 and SR 3.8.4.6.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

*Response:* No.

The proposed changes modify Surveillance Requirements (SRs) regarding the battery terminal and charger voltages and amperage provided in SR 3.8.4.1 and SR 3.8.4.6. Accidents are initiated by the malfunction of plant equipment, or the catastrophic failure of plant structures, systems, or components. The performance of battery testing is not a precursor to any accident previously evaluated and does not change the manner in which the batteries are operated. The proposed testing requirements will not contribute to the failure of the batteries nor any plant structure, system, or component. NextEra Energy Duane Arnold has determined that the proposed change in testing provides an equivalent level of assurance that the batteries are capable of performing their intended safety functions. Thus, the proposed changes do not affect the probability of an accident previously evaluated.

Verifying battery terminal voltage while on float charge for the batteries helps to ensure the effectiveness of the charging system and the ability of the batteries to perform their intended function. The proposed changes involve the manner in which the subject batteries are tested or maintained, and have no effect on the types or amounts of radiation released or the predicted offsite doses in the event of an accident. The proposed testing requirements are sufficient to provide confidence that these batteries are capable of performing their intended safety functions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

*Response:* No.

This TS SR change for the batteries is based upon the addition of two additional cells to each of the existing DAEC 125 [volts direct current] VDC Safety Related Station Batteries (1D1 & 1D2). The improved batteries with 60 cells are at least equivalent to the existing 58-cell batteries. The batteries, with the added cells, provide an acceptable design margin to the existing batteries. Battery circuit coordination is not adversely affected by the addition of this improved battery with 60 cells. The proposed changes to these TS SRs do not introduce any new accident initiators or precursors, or any new design assumptions for those components used to mitigate the consequences of an accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

*Response:* No.

The improvement of the existing batteries, with the addition of 2 cells and the subsequent TS SR changes that verify higher

minimum terminal voltage on float charge in SR 3.8.4.1 and higher 125 VDC battery charger voltage with lower amperage in SR 3.4.3.6, the improved batteries, and the requirements associated with verifying their design functionality, will not involve a significant reduction in the margin of safety. The improved batteries are at least equivalent to the existing batteries. The additional cells in the proposed improved batteries provide an acceptable design margin. The increase in the number of cells from 58 to 60 will result in a small increase in battery terminal voltage on float charge. These proposed TS SRs simply document the verification of the new minimum voltage and amperage values. Accordingly, there is no significant reduction in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Mr. Mitchell S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

*NRC Acting Branch Chief:* Istvan Frankl.

*NextEra Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowac County, Wisconsin*

*Date of application for amendments:* August 16, 2012.

*Description of amendment request:* The proposed amendment would revise Technical Specification 5.3, ''Facility Staff Qualifications,'' to clarify the required qualifications of the Operations Manager.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed amendment is for an administrative change only. No actual facility equipment or accident analyses will be affected by the proposed changes.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

This request is for administrative changes only. No actual facility equipment or accident analyses will be affected by the proposed changes and no failure modes not bounded by previously evaluated accidents will be created.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* No.

Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure[s]) to limit the level of radiation dose to the public. This request is for administrative changes only. No actual plant equipment or accident analyses will be affected by the proposed changes. Additionally, the proposed changes will not relax any criteria used to establish safety limits, will not relax any safety system settings, and will not relax the bases for any limiting conditions of operation.

Therefore, the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for Licensee:* William Blair, Senior Attorney, NextEra Energy Point Beach, LLC, P.O. Box 14000, Juno Beach, FL 33408–0420.

*NRC Acting Branch Chief:* Istvan Frankl.

*Southern Nuclear Operating Company, Inc., Docket Nos. 50, 424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia*

*Date of amendment request:* September 26, 2012.

*Description of amendment request:* The proposed Technical Specification (TS) change would revise TS 3.7.14, ''Engineered Safety Features (ESF) Room Cooler and Safety-Related Chiller System'' such that, with one ESF room cooler and safety-related chiller train inoperable, the allowed Completion Time for Condition A is extended from 72 hours to 7 days. In addition, this proposed TS change would allow 14 days for overhaul maintenance of the safety-related chiller system to be performed. Also proposed is an editorial change to delete a note which is no longer needed.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 10 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not alter any plant equipment or operating practices in such a manner that the probability of an accident is increased. The proposed changes will not alter assumptions relative to the mitigation of an accident or transient event.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve any physical alteration of the plant or significant change in the methods governing normal plant operation.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Based on the operability of the remaining ESF Room Cooler and Safety-Related Chiller Train, the accident analysis assumptions continue to be met with enactment of the proposed changes. The system design and operation are not affected by the proposed changes. The safety analysis acceptance criteria are not altered by the proposed changes. Finally, the proposed compensatory measures for the increase in Completion Time for chiller overhaul maintenance work activities will provide further assurance that no significant reduction in a safety margin will occur.

The proposed changes provide reasonable assurance that the ESF room Cooler and Safety-Related Chiller system will continue to perform its intended safety function.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based on the above, SNC concludes that the proposed changes present no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street NE., Atlanta, Georgia 30308–2216.

*NRC Branch Chief:* Robert Pascarelli.

*Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas*

*Date of amendment request:* September 19, 2012.

*Description of amendment request:* The amendment would increase the voltage limit for the emergency diesel generator (DG) full load rejection test specified by Technical Specification (TS) 3.8.1, ''AC Sources—Operating,'' Surveillance Requirement (SR) 3.8.1.10.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

There are no design changes associated with the proposed change. Design, material, and construction standards that were applicable prior to this amendment request will continue to be applicable.

The proposed change will not affect accident initiators or precursors nor adversely alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained with respect to such initiators or precursors. The DGs' safety function is solely mitigative and is not needed unless there is a loss of offsite power.

The proposed change increases the TS SR limit on maximum voltage following a load rejection but does not physically alter safety related systems nor affect the way in which safety related systems perform their functions. The proposed change does not involve a physical change to the DGs, nor does it change the safety function of the DGs. As such, the proposed change will not alter or prevent the capability of structures, systems, and components (SSCs) to perform their intended functions for mitigating the consequences of an accident and meeting applicable acceptance criteria. The technical analysis performed to support this proposed amendment has demonstrated that the DGs can withstand voltages above the new proposed maximum voltage limit without a loss of protection. The proposed higher limit will continue to provide assurance that the DGs are protected, and the safety function of the DGs will be unaffected by the proposed change.

Therefore, the proposed change does not involve a significant increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

With respect to any new or different kind of accident, there are no proposed design changes nor or there any changes in the method by which any safety related plant SSC performs its specified safety function. The proposed change will not affect the normal method of plant operation or change any operating parameters. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of this amendment.

The proposed amendment will not alter the design or performance of the 7300 Process Protection System, Nuclear Instrumentation System, Solid State Protection System, Balance of Plant Engineered Safety Features Actuation System, Main Steam and Feedwater Isolation System, or Load Shedder and Emergency Load Sequencers used in the plant protection systems.

The proposed increase in the TS SR limit does not affect the interaction of the DGs with any system whose failure or malfunction can initiate an accident. The change does not involve a physical modification of the plant. There are no alterations to the parameters within which the plant is normally operated. No changes are being proposed to the procedures relied upon to mitigate a design basis event. The change does not have a detrimental impact on the manner in which plant equipment operates or responds to an actuation signal.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* No.

There will be no effect on those plant systems necessary to assure the accomplishment of protection functions associated with reactor operation or the Reactor Coolant System. The will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor, nuclear enthalpy rise hot channel factor, loss of coolant accident peak cladding temperature, peak local power density, or any other limit and associated margin of safety. Required shutdown margins in the CORE OPERATING LIMITS REPORT will not be changed.

The proposed change does not eliminate any surveillance or alter the Frequency of surveillances required by the TSs. The increase in the TS SR voltage limit will not affect the ability of the DGs to perform their safety function.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Jay Silberg, Esq., Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street NW., Washington, DC 20037.

*NRC Branch Chief:* Michael T. Markley.

## Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov.*

*Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois*

*Docket Nos. STN 50–454 and STN 50–455, Byron Station, Units 1 and 2, Ogle County, Illinois.*

*Date of application for amendment:* March 20, 2012, as supplemented by letters dated August 14 and 30, 2012.

*Brief description of amendment:* The amendments modify Braidwood and Byron Technical Specifications to permanently exclude portions of the steam generator (SG) tube below the top of the SG tubesheet from periodic SG tube inspections and plugging or repair for Braidwood, Unit 2, and for Byron, Unit 2. In addition, the amendments revise TS 5.6.9 to remove reference to the previous temporary alternate repair criteria and provide reporting requirements specific to the permanent alternate repair criteria.

*Date of issuance:* October 4, 2012.

*Effective date:* As of the date of issuance and shall be implemented within 30 days for Braidwood, Unit 2, and implemented for Byron, Unit 2, prior to entering MODE 4 following. SG inspections required by TS 5.5.9, beginning with the spring 2012, refueling outage.

*Amendment Nos.:* Unit 1–177 and Unit 2–177.

*Facility Operating License Nos. NPF–72, NPF–77, NPF–37, and NPF–66:* The amendments revised the Technical Specifications and License.

*Date of initial notice in* **Federal Register**: June 12, 2012 (77 FR 35072).

The August 14 and 30, 2012, supplements contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a safety evaluation dated October 4, 2012.

*No significant hazards consideration comments received:* No.

*PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania*

*Date of amendment requests:* April 30, 2012, as supplemented by letter dated August 15, 2012.

*Brief description of amendment:* The amendment revised the Cyber Security Plan (CSP) Implementation Schedule for Milestone 3 and 6 at Susquehanna Steam Electric Station, Units 1 and 2. Specifically, for Milestone 3, PPL Susquehanna, LLC (PPL) will install a deterministic data diode appliance between Layers 3 and 2 instead of between Layers 3 and 4 with no change to the approved implementation date. For Milestone 6, PPL will implement the technical controls for critical digital assets (CDAs) by the approved implementation date, and will implement the operational and management controls for the CDAs in conjunction with the full implementation of the CSP.

*Date of issuance:* October 17, 2012.

*Effective date:* This license amendment is effective as of the date of its issuance and shall be implemented by December 31, 2012.

*Amendment Nos.:* 258 and 239.

*Facility Operating License Nos. NPF–14 and NPF–22.* Amendment revised the license and the technical specifications.

*Date of initial notice in* **Federal Register**: August 14, 2012 (77 FR 48560).

The letter dated August 15, 2012, provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the application beyond the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 2012.

*No significant hazards consideration comments received:* No.

*South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina*

*Date of application for amendment:* June 29, 2012, as supplemented September 12, September 20, and October 10, 2012.

*Brief description of amendment:* The amendment revises Technical Specification 3.5.4, ''Refueling Water Storage Tank (RWST),'' such that the non-seismically qualified piping of the Spent Fuel Pool (SFP) purification system may be connected to the RWST's seismic piping by manual operation of a RWST seismically qualified boundary valve under administrative controls for performance of RWST surveillance requirements and filtration. This change will only be applicable through the next two fuel cycles.

*Date of issuance:* October 12, 2012.

*Effective date:* This license amendment is effective as of the date of its issuance.

*Amendment No.:* 192.

*Renewed Facility Operating License No. NPF–12:* Amendment revises the License.

*Date of initial notice in* **Federal Register**: July 24, 2012 (77 FR 43379).

The supplemental submittals dated September 12, September 20, and October 10, 2012, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on July 24, 2012 (77 FR 43379).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 2012.

*No significant hazards consideration comments received:* No.

*Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California*

*Date of application for amendments:* September 2, 2011.

*Brief description of amendments:* The amendments would revise a number of Technical Specification (TS) requirements to impose similar restrictions on the movement of non-irradiated fuel assemblies to those currently in place for movement of irradiated fuel assemblies. The additional restrictions will limit the movement of all fuel assemblies over irradiated fuel assemblies in containment or in the fuel storage pool.

*Date of issuance:* October 16, 2012.

*Effective date:* As of the date of issuance and shall be implemented within 60 days from the date of issuance.

*Amendment No.:* Unit 2–226; Unit 3–219.

*Facility Operating License Nos. NPF–10 and NPF–15:* The amendment revised the Facility Operating Licenses and Technical Specifications.

*Date of initial notice in* **Federal Register**: December 13, 2011 (76 FR 77572).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 2012.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 19th day of October 2012.

For the Nuclear Regulatory Commission

**Louise Lund,**

*Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2012–26355 Filed 10–29–12; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[NRC–2012–0002]**

### Notice of Sunshine Act Meetings

**AGENCY:** Nuclear Regulatory Commission.

**DATES:** Weeks of October 29, November 5, 12, 19, 26, December 3, 2012.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of October 29, 2012**

*Tuesday, October 30, 2012*

8:55 a.m. Affirmation Session (Public Meeting) (Tentative).

*Southern California Edison Co.* (San Onofre Nuclear Generating Station), Docket Nos. 50–361 and 50–362–CAL, Petition to Intervene, Request for Hearing, and Stay Application (June 18, 2012) (Tentative).

This meeting will be webcast live at the Web address—*www.nrc.gov*.

9:00 a.m. Briefing on Fort Calhoun (Public Meeting) (Contact: Michael Hay, 817–200–1527).

This meeting will be webcast live at the Web address—*www.nrc.gov*.

**Week of November 5, 2012—Tentative**

*Monday, November 5, 2012*

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852.

*Thursday, November 8, 2012*

9:30 a.m. Discussion of Management Issues (Closed—Ex. 2).

**Week of November 12, 2012—Tentative**

There are no meetings scheduled for the week of November 12, 2012.

**Week of November 19, 2012—Tentative**

There are no meetings scheduled for the week of November 19, 2012.

**Week of November 26, 2012—Tentative**

*Tuesday, November 27, 2012*

9:00 a.m. Briefing on Operator Licensing Program (Public Meeting), (Contact: Jack McHale, 301–415–3254).

This meeting will be webcast live at the Web address—*www.nrc.gov*.

*Thursday, November 29, 2012*

2:30 p.m. Briefing on Security issues (Closed Ex–1)

**Week of December 3, 2012—Tentative**

*Thursday, December 6, 2012*

9:30 a.m. Meeting with the Advisory Committee on Reactor Safeguards, (ACRS) (Public Meeting), (Contact: Ed Hackett, 301–415–7360)

This meeting will be webcast live at the Web address—*www.nrc.gov*.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Bill Dosch, Chief, Work Life and Benefits Branch, at 301–415–6200, TDD: 301–415–2100, or by email at *william.dosch@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov*.

Dated: October 25, 2012.

**Rochelle C. Bavol,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2012–26741 Filed 10–26–12; 11:15 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2011–0135]**

### Final Interim Staff Guidance Augmenting NUREG–1537, ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors,'' Parts 1 and 2, for Licensing Radioisotope Production Facilities and Aqueous Homogeneous Reactors

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) is issuing Final Interim Staff Guidance (ISG), that augments NUREG–1537, Part 1, ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors: Format and Content,'' and NUREG–1537, Part 2, ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors: Standard Review Plan and Acceptance Criteria.'' Parts 1 and 2 of the ISG correspond to the parts of NUREG–1537, and can be found in the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Numbers ML12156A069 and ML12156A075, respectively. The ISG provides guidance for applicants and the NRC staff related to licensing a heterogeneous or aqueous homogeneous non-power reactor as a utilization facility pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, ''Domestic Licensing of Production and Utilization Facilities.'' The ISG also provides guidance related to licensing a production facility for the separation of byproduct material from special nuclear material pursuant to 10 CFR Part 50. An applicant should use the guidance in Part 1 of the ISG when preparing a construction permit or operating license application. The NRC staff will use Part 2 of the ISG to review such an application.

*Disposition:* On June 20, 2011 (76 FR 35922), the NRC published for public comment the draft ISG, ''Staff Guidance Regarding the Environmental Report for Applications to Construct and/or Operate Medical Isotope Production Facilities'' (ADAMS Accession No. ML11116A166). The NRC received 41 comments on the draft ISG, ADAMS Accession Nos. ML11216A140, ML11220A263, and ML11217A018. On October 13, 2011 (76 FR 63668), the NRC published for public comment Chapters 1–6 of the draft ISG, that augments NUREG–1537, Part 1,

''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors: Format and Content'' (ADAMS Accession No. ML111160058), and NUREG–1537, Part 2, ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors: Standard Review Plan and Acceptance Criteria'' (ADAMS Accession No. ML111810010). On April 10, 2012 (77 FR 21592), the NRC published for public comment Chapters 7–18 of Part 1 of the draft ISG, ADAMS Accession No. ML111570224, and Chapters 7–18 of Part 2 of the draft ISG, ADAMS Accession No. ML111160065. The NRC received 75 comments on the draft ISG, ADAMS Accession Nos. ML11325A120, ML11325A121, ML11325A122, ML12136A120, and ML12135A181. The details of the NRC's disposition of the comments are available at ADAMS Accession No. ML12156A061. The NRC staff incorporated the comments in the final ISG, as appropriate.

*Congressional Review Act:* In accordance with the Congressional Review Act, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

**ADDRESSES:** The NRC maintains ADAMS, which provides text and image files of the NRC's public documents. Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by email at *pdr.resource@nrc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Marcus Voth, Project Manager, Research and Test Reactor Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone at 301–415–1210 or email at *Marcus.Voth@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** The NRC posts its issued staff guidance on the NRC external Web page (*http://www.nrc.gov/reading-rm/doc-collections/isg/*).

Dated at Rockville, Maryland, this 17 day of October 2012.

For the Nuclear Regulatory Commission,

**Linh N. Tran,**

*Acting Chief, Research and Test Reactor Licensing Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2012–26644 Filed 10–29–12; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 70–3103; NRC–2010–0264]**

## Uranium Enrichment Fuel Cycle Facility Inspection Reports Regarding Louisiana Energy Services LLC, National Enrichment Facility, Eunice, NM, Prior to the Commencement of Operations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**FOR FURTHER INFORMATION CONTACT:** Michael Raddatz, Project Manager, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, Maryland 20852; telephone: 301–492–3108; or email to: *Michael.Raddatz@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has conducted inspections of the Louisiana Energy Services (LES), LLC, National Enrichment Facility in Eunice, New Mexico, and has verified that cascades numbered 1.9, 1.10, 1.11, 1.12, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.10, 2.11, 2.12, and 3.1 of the facility have been constructed in accordance with the requirements of the approved license. The NRC staff has prepared inspection reports documenting its findings in accordance with the requirements of the NRC Inspection Manual. As a result of these inspections, on March 14, 2012, the Commission authorized the licensee to start operation of cascades numbered 2.2, 2.3, and 2.5. On March 19, 2012, the Commission authorized the licensee to start operation of cascade number 2.6. On March 27, 2012, the Commission authorized the licensee to start operation of cascades numbered 2.7 and 2.8. On May 24, 2012, the Commission authorized the licensee to start operation of cascade number 1.9. On May 31, 2012, the Commission authorized the licensee to start operation of cascade number 1.10. On June 27, 2012, the Commission authorized the licensee to start operation of cascade number 1.11. On July 9, 2012 (clarified by letter July 16, 2012), the Commission authorized the licensee to start operation of cascade number 2.12. On August 9, 2012, the Commission authorized the licensee to start operation of cascade number 1.12. On August 14, 2012, the Commission authorized the licensee to start operation of cascade number 3.1. On August 24, 2012, the Commission authorized the licensee to start operation of cascade number 2.11. Finally, on September 14, 2012, the Commission authorized the licensee to start operation of cascade number 2.10. The publication of this Notice satisfies the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 70.32 (k) and section 193(c) of the Atomic Energy Act of 1954, as amended.

The introduction of uranium hexafluoride into any module of the National Enrichment Facility is not permitted until the Commission completes an operational readiness and management measures verification review to verify that management measures that ensure compliance with the performance requirements of 10 CFR 70.61 have been implemented and confirms that the facility has been constructed in accordance with the license and will be operated safely. Subsequent operational readiness and management measures verification reviews will continue throughout the various phases of plant construction and, upon completion of these subsequent phases, additional notices will be posted to verify that the phase in question has been constructed in accordance with the license and to acknowledge licensee readiness for operations.

### II. Further Information

Documents related to this action are available online at the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this document are:

| Inspection report numbers | Date | ADAMS accession No. |
|---|---|---|
| 70–3103/2006–001 | January 19, 2007 | ML070190661. |

| Inspection report numbers | Date | ADAMS accession No. |
|---|---|---|
| 70–3103/2007–001 | May 24, 2007 | ML071440430. |
| 70–3103/2007–002 | August 16, 2007 | ML072280647. |
| 70–3103/2007–003 | November 2, 2007 | ML073060571. |
| 70–3103/2007–004 | March 7, 2008 | ML080670475. |
| 70–3103/2008–001 | April 24, 2008 | ML081160345. |
| 70–3103/2008–002 | July 10, 2008 | ML081930118. |
| 70–3103/2008–003 | October 30, 2008 | ML083040618. |
| 70–3103/2008–004 | December 19, 2008 | ML083540709. |
| 70–3103/2008–006 | March 20, 2009 | ML090790642. |
| 70–3103/2009–001 | March 26, 2009 | ML090850669. |
| 70–3103/2009–002 | June 26, 2009 | ML091770643. |
| 70–3103/2009–003 | September 30, 2009 | ML092730612. |
| 70–3103/2009–004 | December 17, 2009 | ML093511013. |
| 70–3103/2009–006 | October 8, 2009 | ML092820188. |
| 70–3103/2010–005 | March 26, 2010 | ML100850424. |
| 70–3103/2010–012 | July 21, 2010 | ML102020385. |
| 70–3103/2011–002 | April 29, 2011 | ML111190268. |
| 70–3103/2011–003 | July 26, 2011 | ML112070634. |
| 70–3103/2011–004 | October 28, 2011 | ML11301A218. |
| 70–3103/2012–002 | April 30, 2012 | ML12121A579. |
| 70–3103/2012–003 | July 6, 2012 | ML12188A105. |
| 70–3103/2012–004 | | Pending. |

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this *19th* day of October 2012.

For the U.S. Nuclear Regulatory Commission

**Brian W. Smith,**

*Chief, Uranium Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2012–26630 Filed 10–29–12; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, November 1, 2012 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Walter, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, November 1, 2012 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: October 25, 2012.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2012–26715 Filed 10–26–12; 11:15 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–68093; File No. SR–CME–2012–42]**

### Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing of Proposed Rule Change Regarding the Valuation of Securities on Deposit

October 24, 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, Chicago Mercantile Exchange Inc. (''CME'') 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 primarily by CME. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is proposing to make certain changes to the way CME values securities on deposit. The text of the proposed changes is available on the CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

## II. Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME 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. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[3]

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

CME is proposing to issue an Advisory Notice that announces certain changes to the way CME will value securities on deposit. Under the proposed changes, CME will begin using the current market value, plus accrued interest, to value securities on deposit. CME currently excludes accrued interest from the value of securities on deposit. Therefore, with this adjustment, accrued interest will now be included in the market value of the security. The purpose of the adjustment is to harmonize valuations with existing industry conventions. CME intends to implement these changes beginning on December 3, 2012, subject to securing required regulatory approvals.

The proposed changes that will take effect are described in the CME Advisory Notice, available on the CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, and at the Commission's Public Reference Room; additions are underlined and deletions are bracketed. CME will also make a filing with its primary regulator, the CFTC, with respect to the proposed changes.

CME believes the proposed changes are consistent with the requirements of the Exchange Act. The proposed rules are designed to promote the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency. These changes would use the current market value, plus accrued interest, for securities on deposit at CME, which will better align CME's practices with the marketplace and expectations of its participants. The changes will therefore enhance CME's ability to manage the risks associated with discharging its responsibilities as a derivatives clearing organization and clearing agency. Because these changes will enhance CME's ability to manage its risks they are also designed to protect investors and the public interest and will help further safeguard customer funds held at the FCM level.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

## 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 up to 90 days (i) as the Commission may designate 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 the 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–CME–2012–42 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–CME–2012–42. 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 such filing also will be available for inspection and copying at the principal office of CME and on the CME's Web site at *http://www.cmegroup.com.*

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–CME–2012–42 and should be submitted on or before November 20, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2012–26560 Filed 10–29–12; 8:45 am]

BILLING CODE 8011–01–P

[3] The Commission has modified the text of the summaries prepared by CME.

[4] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–68101; File No. SR–NYSEArca–2012–111]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To List and Trade Units of the Sprott Physical Platinum and Palladium Trust Pursuant to NYSE Arca Equities Rule 8.201

October 24, 2012.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 9, 2012, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On October 24, 2012, the Exchange submitted Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade units of Sprott Physical Platinum and Palladium Trust (the ''Trust'') pursuant to NYSE Arca Equities Rule 8.201. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to list and trade units (''Units'') of the Trust under NYSE Arca Equities Rule 8.201.[5] Under NYSE Arca Equities Rule 8.201, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges (''UTP'') ''Commodity-Based Trust Shares.'' [6] The Commission has previously approved listing on the Exchange of units of Sprott Physical Gold Trust[7] as well as Sprott Physical Silver Trust,[8] ETFS Platinum Trust,[9] and ETFS Palladium Trust.[10]

Sprott Asset Management LP is the sponsor and manager of the Trust (the ''Manager''),[11] RBC Investor Services Trust (''RBC'') is the trustee and valuation agent of the Trust (the ''Trustee'' or ''Valuation Agent,'' as the case may be) [12] and the custodian of the Trust's assets other than physical platinum and palladium bullion (the ''Non-Platinum and Palladium Custodian'').[13] The Royal Canadian Mint is the custodian for the physical platinum and palladium bullion owned by the Trust (the ''Platinum and Palladium Custodian'').[14]

According to the Registration Statement, the investment objective of the Trust is to invest and hold substantially all of its assets in physical platinum and palladium bullion. The Trust seeks to provide a convenient and exchange-traded investment alternative for investors interested in holding physical platinum and palladium bullion without the inconvenience that is typical of a direct investment in physical platinum and palladium bullion. The Trust intends to achieve its objective by investing primarily in long-term holdings of unencumbered, fully allocated physical platinum and palladium bullion and will not

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] In Amendment No. 1, the Exchange amended the filing to provide that the Exchange may consider a trading halt if trading is halted on the Toronto Stock Exchange (''TSX'') and to provide that the intraday indicative value (''IIV'') will be widely disseminated by one or more major market data venders at least every 15 seconds during the NYSE Arca Core Trading Session.

[5] *See* Amendment No. 4 to the Registration Statement on Form F–1, filed with the Commission on September 4, 2012 (No. 333–179017) (''Registration Statement''). The descriptions of the Trust, the Units and the platinum and palladium markets contained herein are based, in part, on the Registration Statement.

[6] Commodity-Based Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

[7] *See* Securities Exchange Act Release No. 61496 (February 4, 2010), 75 FR 6758 (February 10, 2010) (SR–NYSEArca–2009–113) (approving listing on the Exchange of Sprott Physical Gold Trust).

[8] *See* Securities Exchange Act Release No. 63043 (October 5, 2010), 75 FR 62615 (October 12, 2010) (SR–NYSEArca–2010–84) (approving listing on the Exchange of the Sprott Physical Silver Trust).

[9] *See* Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR–NYSEArca–2009–95) (approving listing on the Exchange of the ETFS Platinum Trust).

[10] *See* Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR–NYSEArca–2009–94) (approving listing on the Exchange of the ETFS Palladium Trust).

[11] The Manager is a limited partnership existing under the laws of Ontario, Canada, and acts as manager of the Trust pursuant to the trust agreement and the management agreement. The Manager will be responsible for to the day-to-day activities and administration of the Trust. The Manager will manage and direct the business and affairs of the Trust. Additional details regarding the Manager are set forth in the Registration Statement. The Manager has adopted a policy pursuant to which no entity or account that is (a) managed or (b) for whom investment decisions are made, directly or indirectly, by a person that is involved in the decision-making process of, or has non-public information about, follow-on offerings of the Trust (a ''Decision Maker'') is permitted to invest in the Trust, and no Decision Maker is permitted to invest in the Trust for the Decision Maker's account or benefit, directly or indirectly.

[12] RBC is a trust company existing under the federal laws of Canada, and is equally owned by the Royal Bank of Canada. RBC is affiliated with a broker-dealer. RBC has represented to the Exchange that it has put in place and will maintain the appropriate information barriers and controls between itself and the broker-dealer affiliate so that the broker-dealer affiliate will not have access to information concerning the composition and/or changes to the Trust's holdings that are not available on the Trust's Web site. The Trustee holds title to the Trust's assets on behalf of the Unitholders of the Trust (the ''Unitholders'') and has exclusive authority over the assets and affairs of the Trust. The Trustee has a fiduciary responsibility to act in the best interest of the Unitholders. Additional details regarding the Trustee are set forth in the Registration Statement.

[13] The Non-Platinum and Palladium Custodian will be responsible for and will bear all risk of the loss of, and damage to, the Trust's assets (other than physical platinum and palladium bullion) that are in its custody, subject to certain limitations based on events beyond the Non-Platinum and Palladium Custodian's control. The Manager, with the consent of the Trustee, may determine to change the custodial arrangements of the Trust. Additional details regarding the Non-Platinum and Palladium Custodian are set forth in the Registration Statement.

[14] The Trust's physical platinum and palladium bullion will be fully allocated and stored with the Mint or a sub-custodian of the Mint. The current sub-custodian of the Mint is Via Mat International Ltd., through its subsidiary, Via Mat International (USA) Inc. (''Via Mat''). The Mint is a Canadian Crown corporation and its obligations generally constitute unconditional obligations of the Canadian Government. The Platinum and Palladium Custodian will be responsible for and will bear all risk of the loss of, and damage to, the Trusts' physical platinum and palladium bullion that is in its or its sub-custodian's custody, subject to certain limitations based on events beyond the Platinum and Palladium Custodian's control. The Manager, with the consent of the Trustee, may determine to change the custodial arrangements of the Trust. Additional details regarding the Platinum and Palladium Custodian are set forth in the Registration Statement.

speculate with regard to short-term changes in platinum or palladium prices. The Trust will not invest in platinum or palladium certificates, futures or other financial instruments that represent platinum or palladium or that may be exchanged for platinum or palladium. The Trust does not anticipate making regular cash distributions to unitholders. The Trust is neither an investment company registered under the Investment Company Act of 1940 [15] nor a commodity pool for purposes of the Commodity Exchange Act.[16]

The Exchange represents that the Units satisfy the requirements of NYSE Arca Equities Rule 8.201 and thereby qualify for listing on the Exchange.[17]

Operation of the Platinum and Palladium Markets

According to the Registration Statement, platinum and palladium are two of six precious metals comprising the ''Platinum Group Metals'' (''PGM''). Platinum and palladium are the PGMs produced in the greatest quantities and are generally viewed as the most significant PGMs in the global marketplace. The other four PGMs (rhodium, ruthenium, iridium and osmium) are produced as co-products of platinum and palladium. PGMs have unique physical attributes, including powerful catalytic properties, strong conductivity and ductility, high levels of resistance to corrosion, strength, durability and high melting points.

PGMs are found primarily in South Africa and Russia. South Africa is the world's leading platinum producer and the second largest palladium producer.[18] Together, South Africa and Russia accounted for 88% of global platinum mine production and 80% of global palladium mine production in 2012.

Due to their rarity and relative inertness, platinum and palladium are considered precious metals. Total 2011 mine production of platinum and palladium was approximately 6.5 and 6.6 million ounces, respectively.

Physical platinum and palladium can be bought and sold through various intermediaries such as precious metal traders and various precious metal exchanges. Additionally, physical platinum and palladium coins and bars can also be purchased through government mints.

Futures on platinum and palladium are traded on two major exchanges: The New York Mercantile Exchange (''NYMEX''), and Tokyo Commodities Exchange (''TOCOM''). The NYMEX accounts for the majority of palladium futures trading volume and has seen increased levels of activity over the past five years. Smaller markets include Shanghai, Mumbai and Johannesburg. The platinum market traded 155 million ounces and the palladium market traded 105.5 million ounces in 2010.

The London Platinum and Palladium Market (''LPPM'') is a London-based trade association that acts as the coordinator for activities conducted on behalf of its members and other participants in the London platinum and palladium markets. The LPPM acts primarily in the function of establishing the Good Delivery Standards (''Good Delivery Standards'') for platinum and palladium in plate or ingot form and maintenance of the ''London/Zurich Good Delivery Lists'', as described below; acts as coordinator for activities conducted on behalf of its members and other participants in the London platinum and palladium markets; and acts as the principal point of contact between the market and its regulators. Members of the LPPM act as the over-the-counter (''OTC'') market-makers for platinum and palladium.[19] Most OTC market trades are cleared through London. The LPPM plays an important role in setting OTC precious metals trading industry standards.

In the OTC market, platinum and palladium that meet the specifications for weight, dimensions, fineness (or purity), identifying marks (including the assay stamp of an LPPM-acceptable refiner) and appearance set forth in the LPPM ''London/Zurich Good Delivery List'' are a standard ''Good Delivery plate or ingot.'' A Good Delivery plate or ingot must contain between 32.151 troy ounces and 192.904 troy ounces of platinum or palladium with a minimum fineness (or purity) of 999.5 parts per 1,000. A Good Delivery plate or ingot must also bear the stamp of one of the refiners listed on the LPPM-approved list.

Platinum Supply and Demand

According to the Registration Statement, gross platinum demand rose by 2% in 2011 to 8.1 million ounces largely as a result of heavy purchasing by the glass industry. The price of platinum fell to a two-year low of $1,364 by the end of 2011 but traded on average at $1,721 for the year as a whole, 7% higher than in 2010. The price of platinum has risen by 3% in 2012 and was $1,445 as at June 3, 2012.

Global mine production of platinum increased by 7% to 6.5 million ounces in 2011. From 2001 to 2011, the level of recycled platinum has increased by 1.5 million ounces, which equates to a compound annual growth rate of 14%. In 2011, 75% of global platinum mine production was from South Africa. The second largest producer in 2011 was Russia, at 13%.

The growth in platinum supply over the last four years has largely been due to a steady increase in the levels of recycled platinum and scrap platinum. In 2011, recycling of platinum rose by 12% to reach 2 million ounces, with 60% of recycled platinum derived from automobile catalytic converters (''Autocatalysts'') and 40% from jewellery. The growth in platinum recycling was driven primarily by higher returns of end-of-life vehicle catalysts. Scrap and recycled platinum constituted 24% of overall 2011 platinum supply.

According to the Registration Statement, demand for platinum is driven primarily by several industries and activities, which may be categorized as (in order of relative importance) the automotive sector; jewellery; other (non-automotive) industrial manufacturing; and investment. For example:

- Platinum is a required component in the manufacturing of Autocatalysts. Platinum is used to form the surface catalyst upon which critical chemical reactions occur, converting exhaust emissions into neutral compounds. Diesel-powered vehicles require platinum-based Autocatalysts, whereas gasoline vehicle manufacturers have the option of using palladium-based Autocatalysts. At present, there are no widely used substitutes for platinum or palladium used in Autocatalysts. Platinum demand for use in Autocatalysts was 3.1 million ounces in 2011, or 38% of global demand. The growth in global vehicle output in 2010 moderated in 2011. Estimated total vehicle production worldwide rose by around 2 million units to approximately 80 million units in 2011. This led to a

[15] 15 U.S.C. 80a.

[16] 17 U.S.C. 1.

[17] With respect to application of Rule 10A–3 (17 CFR 240.10A–3) under the Exchange Act (15 U.S.C. 78a), the Trust relies on the exemption contained in Rule 10A–3(c)(7).

[18] In South Africa, PGMs occur chiefly in the Bushveld Igneous Complex, an irregular oval area approximately 15,000 square miles in size and centrally located in the Transvaal Basin. This complex hosts the world's largest reserve of platinum metals. Russia is the largest producer of palladium, with production concentrated in the Norilsk region.

[19] Members of the LPPM typically trade with each other and with their clients on a principal-to-principal basis. All risks, including those of credit, are between the two parties to a transaction. The OTC market allows flexibility unlike a futures exchange, where trading is based around standard contract units, settlement dates and delivery specifications. It also provides confidentiality, as transactions are conducted solely between the two principals involved.

1% increase in platinum demand for the auto industry from 2010 to 2011.

• The second largest source of demand for platinum in 2011 was jewellery manufacturing, which represented 31% of the global demand for platinum. Platinum is sought-after for its rarity, silvery-white lustre and resistance to wear and tarnish.

• Industrial manufacturing includes the chemical sector, the petroleum refining sector, the electrical sector, the glass manufacturing sector, the medical, biomedical and dental sectors, and other manufacturing sectors, such as turbines. Total non-automotive industrial demand for platinum jumped by 17% to 2.1 million ounces in 2011. Demand for platinum in industrial applications reached 2.1 million ounces. New capacity installations, together with pre-buying in anticipation of future growth, increased platinum demand in the glass sector by 44% to 555,000 ounces. Expansions in the petrochemical industry in developing markets and construction of new refining capacity in Europe and North America also drove up demand.

• The investment sector includes the investment and trading activities of both professional and private investors and speculators. These participants range from large hedge funds and mutual funds to day-traders on futures exchanges and retail-level coin collectors. Physically-backed investment demand, comprising coins, bars, investments held in allocated accounts, and exchange traded products, fell 30% to 460,000 ounces, representing approximately 6% of total reported demand in 2011. Inflows tended to coincide with periods of rising prices.

Palladium Supply and Demand

According to the Registration Statement, the palladium market was in a 1.3 million ounce surplus in 2011. Gross demand fell 13% to 8.5 million ounces due to sharply negative investment demand.

During 2011, 775,000 ounces of palladium were sold from Russian state inventories, although shipments from this source were the lowest in five years. The fall in Russian state stock shipments largely offset growth in output from North America and Zimbabwe as operations ramped up to full production. In aggregate, 2011 mine production and stock sales of palladium were flat at 7.4 million ounces compared to 2010.

During 2011, mine production of palladium was dominated by Russia and South Africa, which represented 41% and 39% of global production (excluding supply from Russia stock sales and recycled palladium), respectively. Mine production in 2011 was 6.6 million ounces, which compares to a 10-year average mine production of 6.8 million ounces.

The supply of scrap and recycled palladium has grown at a compound annual growth rate of 24% since 2001 and represented 24% of overall palladium supply in 2011. Seventy-one percent of recycled palladium came from Autocatalysts in 2011 and 20% came from waste electrical equipment.

According to the Registration Statement, demand for palladium is driven primarily by several industries and activities, which may be categorized as (in order of relative importance) the automotive sector; other (non-automotive) industrial manufacturing; and jewellery. For example:

• Palladium, like platinum, is a key component in the manufacturing of automobiles, primarily through its use in gasoline Autocatalysts. Like platinum, palladium can be used to form the surface catalyst upon which critical chemical reactions occur converting exhaust emissions into neutral compounds. In this regard, palladium is the only known substitute for platinum. For the past decade, the largest source of demand for palladium has consistently come from the auto industry (71% of 2011 demand). Given palladium's historically lower price compared to platinum, auto industry manufacturers have shifted from platinum to palladium where practical in Autocatalyst manufacturing. Demand for palladium in the automotive sector increased in 2011 by 8% over 2010 and, with the exception of the recession years of 2008 and 2009, has increased globally over the past nine years. Palladium demand in 2011 was driven by growth in vehicle output in all regions apart from Japan, and greater use of palladium in light duty diesel after-treatment systems.

• Industrial manufacturing includes demand primarily from the electronics, dental, and chemical industries. Electronics manufacturing includes palladium resistors and capacitors which are used in the manufacturing of circuit boards. Industrial demand for palladium strengthened overall in 2011, increasing by 15,000 ounces to 2.5 million ounces. Rising levels of personal wealth in China and other emerging markets increased the demand for synthetic fibres and plastics, leading in turn to the expansion of bulk chemical production in 2011, which require palladium-containing catalysts in the manufacturing process and plastics. Recovering demand in export markets as well as government strategy in China to increase domestic consumption led to increased demand for process catalyst charges.

• In 2011, jewellery comprised 6.0% of the total demand for palladium. Purchasing of palladium by the jewellery industry globally declined by 90,000 ounces in 2011 to 505,000 ounces, as the metal suffered from a lack of positioning and effective marketing in China. Palladium is sought-after for use in jewellery since it does not tarnish or wear out.

Elevated palladium prices for much of 2011 put many investors in exchange-traded funds in a position to sell at a profit, resulting in total disinvestment of 565,000 ounces in 2011.

Operation of the Trust

According to the Registration Statement, the Trust will not hold or trade in commodity futures contracts regulated by the Commodity Exchange Act, as administered by the U.S. Commodity Futures Trading Commission (''CFTC''). According to the Registration Statement, the Trust is not a commodity pool for purposes of the Commodity Exchange Act,[20] and none of the Manager, the Trustee or the underwriters is subject to regulation by the CFTC as a commodity pool operator or a commodity trading adviser in connection with the Units.

According to the Registration Statement, the Trust was created to invest and hold substantially all of its assets in physical platinum and palladium bullion. The Trust intends to invest primarily in long-term holdings of unencumbered, fully allocated, physical platinum and palladium bullion and will not speculate with regard to short-term changes in platinum and palladium prices.

The Trust is authorized to issue an unlimited number of Units in one or more classes and series of Units.

Except with respect to cash held by the Trust to pay expenses and anticipated cash redemptions, the Trust expects to own only physical platinum and palladium bullion that is certified as conforming to the Good Delivery Standard of the LPPM (''Good Delivery''). The Manager intends to invest and hold approximately 97% of the total net assets of the Trust in physical platinum and palladium bullion, which will be stored in Good Delivery plate and/or ingot form.[21] The

[20] 7 U.S.C. 1 *et seq.*

[21] The Trust's Investment and Operating Restrictions provide that the Trust will invest in and hold a minimum of 90% of the total net assets of the Trust in physical platinum and palladium bullion in Good Delivery plate or ingot form and

Trust will purchase approximately equal dollar amounts of each of physical platinum and palladium bullion.

The Trust will not invest in platinum or palladium certificates, futures or other financial instruments that represent platinum or palladium or that may be exchanged for platinum or palladium and will not purchase, sell or hold derivatives.

According to the Registration Statement, to purchase physical platinum and palladium bullion, the Manager will create an order internally and send it for pre-trade compliance review. Once the order has been approved, the order will be placed by one of the Manager's traders. Orders generally will be placed by phone and through electronic dealing systems. Lists of the plates and ingots available to fill the buy order will be sent to the Manager by a bullion broker with whom the Manager has an established relationship. The trade will be required to be effected for Good Delivery plates or ingots, as the case may be, and executed in accordance with the LPPM compliance standards. Once executed, the order will be allocated and sent for post-trade compliance monitoring and approval. Upon approval, the Mint or its sub-custodian, or both, will be notified and the trade will be settled between the Mint and the bullion broker. The bullion broker will arrange for the delivery of the Good Delivery plate or ingot, as the case may be, to the destination specified by the purchaser, which will be the Mint or its sub-custodian with respect to physical platinum and palladium bullion purchased by the Trust. Once the Mint takes delivery of physical platinum and palladium bullion (at the Mint or at the Mint's sub-custodian), it will be immediately fully allocated to the Trust's account and segregated from non-Trust assets held by the Mint or such sub-custodian of the Mint. The Manager expects to complete the purchase of physical platinum and palladium bullion within 20 days on which the Exchange or the TSX is open for trading (''Business Days'') after the completion of the offering. While the Manager will work with a bullion broker with whom the Manager has an established relationship, the Manager has represented that it will make all purchases of physical platinum and palladium bullion on an arms-length basis and will not make purchases from affiliated entities.

The Manager intends to store physical platinum bullion acquired by the Trust at the Mint. The Manager intends to purchase with proceeds of the offering as much platinum bullion as is practicable in Canada or the United States. However, given the amount of physical platinum bullion generally available for purchase in Canada and the United States, the Manager expects that a significant portion of such physical platinum bullion will be purchased in the London markets. The Manager intends to store physical palladium bullion acquired by the Trust at Via Mat in London or Zurich, as certain taxes are payable in respect of palladium bullion delivered in Canada (other than for immediate export). The Manager intends to purchase with proceeds of the offering palladium bullion in the London and North American markets. While there is generally no difference between the purchase prices of platinum and palladium in the North American and London markets (platinum and palladium trade in both the North American and London markets in US dollars), transportation costs payable by the Trust may be substantially higher for platinum bullion purchased in the London market and stored in Canada and for palladium bullion purchased in North America and stored in London or Zurich. Based on current rates, the Manager expects that transportation costs from London to the Mint would be approximately $0.20 to $0.30 per ounce for platinum bullion (for air transportation), and transportation costs from North America to Via Mat in London or Zurich would be no more than $0.10 per ounce for palladium bullion, assuming current market prices.

The physical platinum and palladium bullion will be subject to a physical count by a representative of the Manager periodically on a spot inspection basis and subject to audit procedures by the Trust's external auditors on at least an annual basis.

Secondary Market Trading

According to the Registration Statement, the Units will generally trade at a premium or discount to the net asset value (''NAV'') per Unit, depending on relative supply and demand for the Units in the secondary market. The amount of the discount or premium in the trading price relative to the NAV per Unit may be influenced by non-concurrent trading hours between the LPPM, which is the main global exchange on which platinum and palladium for physical delivery is traded, and the Exchange and the TSX. Liquidity in the global platinum and palladium markets will be reduced after the close of regular trading hours on the LPPM at 4:00 p.m. Western European time (11:00 a.m. Eastern time (''E.T.'')). The Units will trade on the Exchange and the TSX until 4:00 p.m. E.T. As a result of the reduced liquidity in the global platinum and palladium markets after the close of regular trading hours on the LPPM, trading spreads, and the resulting premium or discount to the NAV per Unit, may widen between the close of regular trading hours for the bullion on LPPM and 4:00 p.m. E.T.

Initial Public Offering and Redemption of Units

The Trust will offer at a minimum 1,000,000 Units in its initial public offering to a minimum of 400 Unitholders. Each Unit will represent an equal, fractional, undivided ownership interest in the net assets of the Trust attributable to the particular class of Units. The Trust may not issue additional units of the class offered in the offering following the completion of the offering except (i) if the net proceeds per unit to be received by the Trust are not less than 100% of the most recently calculated NAV per Unit immediately prior to, or upon, the determination of the pricing of such issuance or (ii) by way of unit distribution in connection with an income distribution. According to the Registration Statement, the Trust does not intend to issue new Units, or redeem existing Units, on a day-to-day basis.

Unitholders may redeem their Units on a monthly basis, as described below.

Redemption for Physical Platinum and Palladium

According to the Registration Statement, subject to the terms of the Trust Agreement, a Unitholder may redeem Units for physical platinum and palladium bullion, provided the

hold no more than 10% of the total net assets of the Trust, at the discretion of the Manager, in physical platinum and palladium bullion (in Good Delivery plate or ingot form or otherwise), debt obligations of or guaranteed by the Government of Canada or a province of Canada or by the Government of the United States of America or a state thereof, short-term commercial paper obligations of a corporation or other person whose short-term commercial paper is rated R–1 (or its equivalent, or higher) by DBRS Limited or its successors or assigns or F–1 (or its equivalent, or higher) by Fitch Ratings or its successors or assigns or A–1 (or its equivalent, or higher) by Standard & Poor's or its successors or assigns or P–1 (or its equivalent, or higher) by Moody's Investor Service or its successors or assigns, interest-bearing accounts and short-term certificates of deposit issued or guaranteed by a Canadian chartered bank or trust company, money market mutual funds, short-term government debt or short-term investment grade corporate debt, or other short-term debt obligations approved by the Manager from time to time (for the purpose of this paragraph, the term ''short-term'' means having a date of maturity or call for payment not more than 182 days from the date on which the investment is made), except during the 60-day period following the closing of the offering or additional offerings or prior to the distribution of the assets of the Trust.

redemption request is for a minimum of 25,000 Units. Units redeemed for physical platinum and palladium bullion will have a redemption value equal to the aggregate value of the NAV per Unit of the redeemed Units on the last day of the month on which the Exchange is open for trading in the month during which the redemption request is processed (less applicable expenses described below) (the ''Redemption Amount'').

The amount of physical platinum and palladium bullion a redeeming Unitholder is entitled to receive will be determined by the Manager, who will allocate the Redemption Amount to physical platinum and palladium bullion in direct proportion to the value of physical platinum and palladium bullion held by the Trust at the time of redemption (the ''Bullion Redemption Amount''). The Manager will determine the quantity of each particular metal to be delivered to a redeeming Unitholder based on the applicable Bullion Redemption Amount and the sizes of plates and ingots of that metal that are held by the Trust on the redemption date. A redeeming Unitholder may not receive physical platinum and palladium bullion in the proportions then held by the Trust and, if the Trust does not have a Good Delivery plate or ingot, as the case may be, of a particular metal in inventory of a value equal to or less than the applicable Bullion Redemption Amount, the redeeming Unitholder will not receive any of that metal.[22] Any Bullion Redemption Amount in excess of the value of the Good Delivery plates or ingots, as the case may be, of the particular metal to be delivered to the redeeming Unitholder will be paid in cash, as such excess amount will not be combined with any excess amounts in respect of the other metal for the purpose of delivering additional physical platinum and palladium bullion.

A Unitholder redeeming Units for physical platinum and palladium bullion will be responsible for expenses incurred by the Trust in connection with such redemption. Unitholders will be informed of the exact amount of expenses to be incurred in connection with the redemption on the notice from the Trust's registrar and transfer agent to the redeeming Unitholder that informs the Unitholder that the redemption notice was received and determined to be complete.[23] A Unitholder that owns a sufficient number of Units who desires to exercise redemption privileges for physical platinum and palladium bullion must do so by instructing his, her or its broker, who must be a direct or indirect participant of Clearing and Depository Services, Inc. (''CDS'') or The Depository Trust Company (''DTC''), to withdraw such position with CDS or DTC, as applicable, and to deliver to the Trust's transfer agent on behalf of the Unitholder a written notice of the Unitholder's intention to redeem Units for physical platinum and palladium bullion. A bullion redemption notice must be received by the Trust's transfer agent no later than 4:00 p.m., E.T., on the 15th day of the month in which such redemption notice will be processed or, if such day is not a Business Day, then on the immediately following day that is a Business Day. Any bullion redemption notice received after such time will be processed in the next month.

Physical platinum and palladium bullion received by a Unitholder as a result of a redemption of Units will be transported by armored transportation service carrier pursuant to instructions provided by the Unitholder to the Manager, provided that those instructions are acceptable to the armored transportation service carrier. The release of the physical platinum and palladium bullion by the Mint and/or its sub-custodian to the armored transportation service carrier will constitute delivery of such physical platinum and palladium bullion by the Trust to the Unitholder and the payment of the portion of the applicable Bullion Redemption Amount that is to be paid in physical platinum and palladium bullion.[24] The armored transportation service carrier will receive physical platinum and palladium bullion in connection with a redemption of Units approximately 21 Business Days after the end of the month in which the redemption notice is processed. As directed by the Manager, any cash to be received by a redeeming Unitholder in connection with a redemption of Units for physical platinum and palladium bullion will be delivered or caused to be delivered by the Manager to the Unitholder's account within 21 Business Days after the month in which the redemption is processed.

Redemption of Units for Cash

According to the Registration Statement, Unitholders whose Units are redeemed for cash will be entitled to receive a redemption price per Unit equal to 95% of the lesser of (i) the volume-weighted average trading price of the Units traded on the Exchange or, if trading has been suspended on the Exchange, the volume-weighted average trading price of the Units traded on the TSX, for the last five days on which the respective stock exchange is open for trading for the month in which the redemption request is processed and (ii) the NAV per Unit of the redeemed Units, on the last day of such month on which the Exchange is open for trading. Cash redemption proceeds will be transferred to a redeeming Unitholder approximately three Business Days after the end of the month in which such redemption request is processed by the Trust.

A cash redemption notice must be received by the Trust's transfer agent no later than 4:00 p.m., E.T., on the 15th day of the month in which the cash redemption notice will be processed or, if such day is not a Business Day, then on the immediately following day that is a Business Day. Any cash redemption notice received after such time will be processed in the next month.

Suspension of Redemptions

According to the Registration Statement, the Manager, on behalf of the Trust, may suspend the right of Unitholders to request a redemption of their Units or postpone the date of delivery or payment of the redemption proceeds (whether in physical platinum and palladium bullion or cash, or both, as the case may be) with the prior approval of Canadian securities regulatory authorities having jurisdiction, where required, for any period during which the Manager

[22] According to the Manager, it views this language as a binding commitment to deliver, in the event a Unitholder is redeeming units for bullion, to such Unitholder an amount of platinum and palladium in accordance with the size of plates and ingots held by the Trust; in no event would the Manager determine to not deliver to such Unitholder bullion if there are plates and ingots available in a size that permits such redemption to be satisfied in bullion, subject to the applicable bullion redemption requirements.

[23] Because the exact amount of expenses associated with a redemption cannot be determined until certain facts are known, *e.g.,* the amount of bullion to be delivered and the delivery destination, it is not possible to provide the exact amount of redemption expenses to a redeeming Unitholder until the bullion redemption notice has been received and processed by the Trust's registrar and transfer agent. However, barring unforeseen circumstances, a redeeming Unitholder will receive the notice confirming the bullion redemption request, which will contain the approximate amount of bullion to be received, before the bullion is sent.

[24] Physical platinum and palladium bullion transported to an institution located in North America authorized to accept and hold Good Delivery plates and ingots will likely retain its Good Delivery status while in the custody of such institution. Physical platinum and palladium bullion transported pursuant to a Unitholder's delivery instruction to a destination other than an institution located in North America authorized to accept and hold Good Delivery plates and ingots will no longer be deemed Good Delivery once received by the Unitholder.

determines that conditions exist which render impractical the sale of assets of the Trust or which impair the ability of the Manager to determine the value of the assets of the Trust or the redemption amount for the Units.

Pursuant to Sections 5.7(2) and 5.7(3) of National Instrument 81–102,—*Mutual Funds,* the Trust must apply to the Ontario Securities Commission, the securities regulatory authority for the jurisdiction in which the head office of the Trustee is located, for approval to suspend redemptions and must concurrently file a copy of the application with the securities regulatory authority in each of the other Canadian jurisdictions in which the Units will be offered. The Trust may suspend redemptions only after the application is approved by the Ontario Securities Commission and has not been disallowed by any of the other relevant Canadian jurisdictions.[25]

In the event of any such suspension, the Manager will issue a press release announcing the suspension and will advise the Trustee, the Trust's Valuation Agent and any other agents appointed by the Manager, as applicable. The suspension may apply to all requests for redemption received prior to the suspension, but as for which payment has not been made, as well as to all requests received while the suspension is in effect. All Unitholders making such requests will be advised by the Manager of the suspension and that the redemption will be effected at a price determined on the first valuation date that the NAV per Unit is calculated following the termination of the suspension. All such Unitholders will have, and will be advised that during such suspension of redemptions they have, the right to withdraw their requests for redemption. The suspension will terminate in any event on the first Business Day on which the condition giving rise to the suspension has ceased to exist or when the Manager has determined that such condition no longer exists, provided that no other condition under which a suspension is authorized then exists, at which time the Manager will issue a press release announcing the termination of the suspension and will advise the Trustee, the Trust's Valuation Agent and any other agents appointed by the Manager, as applicable. Subject to applicable Canadian and U.S. securities laws, any declaration of suspension made by the Manager, on behalf of the Trust, will be conclusive.

Termination Events

The Trust does not have a fixed termination date but will be terminated and dissolved in the event any of the following occurs:

1. There are no outstanding Units;
2. The Trustee resigns or is removed and no successor trustee is appointed by the Manager by the time the resignation or removal becomes effective;
3. The Manager resigns and no successor manager is appointed by the Manager and approved by Unitholders by the time the resignation becomes effective;
4. The Manager is, in the opinion of the Trustee, in material default of its obligations under the trust agreement and such default continues for 120 days from the date the Manager receives notice of such default from the Trustee and no successor manager has been appointed by the Unitholders;
5. The Manager has been declared bankrupt or insolvent or has entered into a liquidation or winding-up, whether compulsory or voluntary (and not merely voluntary liquidation for the purposes of amalgamation or reconstruction);
6. The Manager makes a general assignment for the benefit of its creditors or otherwise acknowledges its insolvency; or
7. The assets of the Manager have become subject to seizure or confiscation by any public or governmental authority.

In addition, the Manager may, in its discretion, at any time terminate and dissolve the Trust, without Unitholder approval, if, in the opinion of the Manager, after consulting with the independent review committee, the NAV has been reduced such that it is no longer economically feasible to continue the Trust and it would be in the best interests of the Unitholders to terminate the Trust, by giving the Trustee and each holder of Units at the time not less than 60 days and not more than 90 days written notice prior to the effective date of the termination of the Trust. To the extent such termination of the Trust in the discretion of the Manager may involve a matter that would be a ''conflict of interest matter'' as set forth under applicable Canadian securities legislation, the matter will be referred by the Manager to the Trust's independent review committee for its recommendation. In connection with the termination of the Trust, the Trust will, to the extent possible, convert its assets to cash and, after paying or making adequate provision for all of the Trust's liabilities, distribute the net assets of the Trust to Unitholders, on a pro rata basis, as soon as practicable after the termination date.

Valuation of Platinum and Palladium and Definition of NAV

The Valuation Agent will calculate the NAV for each class of Units as of 4:00 p.m., E.T., on each Business Day. The NAV as of the valuation time on each Business Day will be the amount obtained by deducting from the aggregate fair market value of the assets of the Trust as of such date an amount equal to the fair value of the liabilities of the Trust (excluding all liabilities represented by outstanding Units, if any) as of such date.[26] Registration or transfers of the Units may be made through CDS and/or DTC, each of which hold the Units on behalf of its participants (*i.e.,* brokers), which in turn may hold the Units on behalf of their customers.

Prior to commencement of trading in the Units, the Exchange will obtain a representation from the Trust that the NAV per Unit will be calculated daily and will be made available to all market participants at the same time.

Intraday Indicative Value

The Trust Web site will provide an IIV per unit for the Units, as calculated by a third party financial data provider during the Exchange's Core Trading Session (9:30 a.m. to 4:00 p.m., E.T.). [27] The IIV will be calculated by:

1. Multiplying the total number of ounces of physical platinum bullion held by the Trust as of the close of

[25] Other Canadian securities regulatory authorities which must be notified are as follows: British Columbia Securities Commission, Alberta Securities Commission, Saskatchewan Securities Commission, The Manitoba Securities Commission, Autorite des marches financiers, New Brunswick Securities Commission, Nova Scotia Securities Commission, Service Newfoundland and Labrador, Prince Edward Island Securities Office, Office of the Attorney General, Superintendent of Securities, Northwest Territories, Superintendent of Securities, Yukon Territory, and Superintendent of Securities, Nunavut.

[26] According to the Trust, the Trust is a mutual fund under applicable Canadian securities legislation and must calculate its NAV pursuant to Part 14 of National Instrument 81–106—*Investment Fund Continuous Disclosure* (''NI 81–106''), a rule applicable to Canadian mutual funds and administered by Canadian securities regulatory authorities. Pursuant to Subsection 14.2(1) of NI 81–106, the Trust must subtract the ''fair value'' of its liabilities from the fair value of its assets when calculating its NAV. Subsection 14.2(1.2) of NI 81–106 defines fair value as (a) the market value based on reported prices and quotations in an active market; or (b) if the market value is not available, or the Manager believes that it is unreliable, a value that is fair and reasonable in all the relevant circumstances, and requires the Manager to establish and maintain appropriate written policies and procedures for determining fair value of the Trust's assets and liabilities and to consistently follow those policies and procedures.

[27] The IIV on a per Unit basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

business on the previous day with the mid-price of spot platinum per ounce (the ''Platinum IIV'');

2. Multiplying the total number of ounces of physical palladium bullion held by the Trust as of the close of business on the previous day with the mid-price of spot palladium per ounce (the ''Palladium IIV'');

3. Adding the Platinum IIV to the Palladium IIV and the fair market value of the assets of the Trust that are not physical platinum or palladium bullion as of the close of business on the previous day[28] (such sum, the ''IIV Assets'');

4. Subtracting the fair market value of the Trust's total liabilities (excluding all liabilities represented by outstanding Units, if any) as of the close of business on the previous day [29] from the IIV Assets; and

5. Dividing the result by the number of Units of the Trust outstanding as of the close of business on the previous day.

Availability of Information

The Web site for the Trust will contain the following information, on a per Unit basis, for the Trust: (a) The mid-point of the bid-ask price [30] at the close of trading in relation to the NAV as of the time the NAV is calculated (''Bid/Ask Price''), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The Web site for the Trust will also provide the Trust's prospectus, as well as the two most recent reports to Unitholders. The Trust Web site will provide the last sale price of the Units as traded in the U.S. market, as well as a breakdown, provided on a daily basis, of the holdings of the Trust by metal type. The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the NYSE Arca Core Trading Session.

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity, such as platinum or palladium, over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the quotation and last sale price for the Units, as is the case for all equity securities traded on the Exchange. In addition, there is a considerable amount of platinum and palladium price and platinum and palladium market information available on public Web sites and through professional and subscription services.

Investors may obtain on a 24-hour basis platinum or palladium pricing information based on the spot price for an ounce of platinum or palladium from various financial information service providers, such as Reuters and Bloomberg. Reuters and Bloomberg provide at no charge on their Web sites delayed information regarding the spot price of platinum and palladium and last sale prices of platinum and palladium futures, as well as information about news and developments in the platinum and palladium market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on platinum and palladium prices directly from market participants. ICAP plc provides an electronic trading platform called EBS for the trading of spot platinum and palladium, as well as a feed of real-time streaming prices, delivered as record-based digital data from the EBS platform to its customer's market data platform via Bloomberg or Reuters.

Complete real-time data for platinum and palladium futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures and options information on current and past trading sessions and market news free of charge on its Web site. There are a variety of other public Web sites providing information on platinum and palladium, ranging from those specializing in precious metals to sites maintained by major newspapers, such as The Wall Street Journal. In addition, the daily London noon Fix is publicly available at no charge at *www.thebulliondesk.com.*

The Trust's daily (or as determined by the Manager in accordance with the trust agreement) NAV will be posted on the Trust's Web site as soon as practicable. In addition, the Exchange will make available over the Consolidated Tape quotation information, trading volume, closing prices and NAV per Unit from the previous day.

Criteria for Initial and Continued Listing

The Trust and the Units will be subject to the relevant criteria in NYSE Arca Equities Rule 8.201(e) for initial and continued listing of the Units.

A minimum of 1,000,000 Units will be required to be outstanding at the start of trading. The minimum number of Units required to be outstanding is comparable to requirements that have been applied to previously-listed units of Sprott Physical Gold Trust.[31] The Exchange believes that the anticipated minimum number of Units outstanding at the start of trading is sufficient to provide adequate market liquidity.[32]

Trading Rules

The Exchange deems the Units to be equity securities, thus rendering trading in the Trust subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Units on the Exchange will occur in accordance with NYSE Arca Equities Rule 7.34(a). The Exchange has appropriate rules to facilitate transactions in the Units during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Units. Trading on the Exchange in the Units may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Units inadvisable. These may include: (1) The extent to which conditions in the underlying platinum or palladium market have caused disruptions and/or lack of trading, (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, or (3) if trading in the Units is halted on TSX. In addition, trading in Units will be subject to trading halts caused by extraordinary

[28] The fair market value of the non-bullion assets of the Trust will not change significantly day over day and should be relatively small in relation to the value of the Trust's bullion assets. Therefore the previous' day closing value of the Trust's non-bullion assets will be used as approximation of the current day's value.

[29] The value of the total liabilities of the Trust will not change significantly day over day and should be relatively small in relation to the value of the Trust's bullion assets. Therefore the previous' day closing value of the Trust's total liabilities will be used as an approximation of the current day's value.

[30] The bid-ask price of the Trust is determined using the midpoint of the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

[31] *See supra* note 6.

[32] The Exchange notes that a minimum of 1,000,000 Units will be outstanding at the start of trading, while under NYSE Arca Equities Rule 8.201(e)(2)(ii) the Exchange will consider the suspension of trading in, or removal from listing of, units if, following the initial 12 month period following commencement of trading on the Exchange, a trust has fewer than 50,000 receipts issued and outstanding.

market volatility pursuant to the Exchange's ''circuit breaker'' rule.[33] The Exchange will halt trading of the Units on the Exchange in the event the Trust directs the Trust's Valuation Agent to suspend the calculation of the value of the net assets of the Trust and the NAV. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Units is not disseminated to all market participants at the same time, it will halt trading in the Units until such time as the NAV is available to all market participants.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (including Commodity-Based Trust Shares) to monitor trading in the Units. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Units in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

Further, NYSE Arca Equities Rule 8.201 sets forth certain restrictions on exchange-traded product (''ETP'') Holders acting as registered Market Makers in the Units to facilitate surveillance. Pursuant to NYSE Arca Equities Rule 8.201(g), an ETP Holder acting as a registered Market Maker in the Units is required to provide the Exchange with information relating to its trading in the underlying platinum and palladium, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Equities Rule 6.3 requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Units to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Units).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. Also, pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Units and the underlying platinum and palladium, platinum or palladium futures contracts, options on platinum or palladium futures, or any other platinum or palladium derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members of the ISG, including the COMEX.[34]

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Units. Specifically, the Information Bulletin will discuss the following: (1) The procedures for redemptions of Units; (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Units; (3) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction; (4) the possibility that trading spreads and the resulting premium or discount on the Units may widen as a result of reduced liquidity of platinum and palladium trading during the Core and Late Trading Sessions after the close of the major world platinum and palladium markets; and (5) trading information.

For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Exchange notes that investors purchasing Units directly from the Trust will receive a prospectus. ETP Holders purchasing Units from the Trust for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical platinum and palladium, that the Commission has no jurisdiction over the trading of platinum and palladium as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of platinum and palladium futures contracts and options on platinum and palladium futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Exchange Act.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)[35] that an exchange have rules that are 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, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Units will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.201. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Units in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement, including COMEX.

[33] *See* NYSE Arca Equities Rule 7.12.

[34] A list of ISG members is available at *http://www.isgportal.org.* The Investment Industry Regulatory Organization of Canada and the New York Mercantile Exchange, of which the COMEX is a division, are ISG members. However, TOCOM is not an ISG member and the Exchange does not have in place a comprehensive surveillance sharing agreement with such market.

[35] 15 U.S.C. 78f(b)(5).

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest. There is a considerable amount of platinum and palladium price and platinum and palladium market information available on public Web sites and through professional and subscription services. Investors may obtain on a 24-hour basis platinum or palladium pricing information based on the spot price for an ounce of platinum or palladium from various financial information service providers. Complete real-time data for platinum and palladium futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. In addition, the London AM Fix and London PM Fix are publicly available at no charge at *www.thebulliondesk.com.* The Trust's daily (or as determined by the Manager in accordance with the trust agreement) NAV will be posted on the Trust's Web site as soon as practicable. The Trust's Web site will provide an IIV per Unit, as calculated by a third party financial data provider during the Exchange's Core Trading Session. The IIV will be widely disseminated by one or more major market data venders at least every 15 seconds during the NYSE Arca Core Trading Session. The Trust's Web site will also provide the Trust's prospectus, as well as the two most recent reports to Unitholders. In addition, the Exchange will make available over the Consolidated Tape quotation information, trading volume, closing prices and NAV per Unit from the previous day.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of Commodity-Based Trust Shares that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Units and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding platinum and palladium pricing and platinum and palladium futures information.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the 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, as modified by Amendment No. 1, is consistent with the Exchange 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–NYSEArca–2012–111 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–NYSEArca–2012–111. 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2012–111, and should be submitted on or before November 20, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2012–26589 Filed 10–29–12; 8:45 am]

**BILLING CODE 8011–01–P**

---

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–68094; File No. SR–BATS–2012–042]**

## Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the iShares Sovereign Screened Global Bond Fund

October 24, 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 12, 2012, BATS Exchange, Inc. (''Exchange'' or ''BATS'') 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 substantially by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange is proposing to list and trade shares of the iShares Sovereign Screened Global Bond Fund (''Fund'') of the iShares Sovereign Screened Global Bond Fund, Inc. (''Company'') under BATS Rule 14.11(i) (''Managed Fund Shares''). The shares of the Fund are collectively referred to herein as the ''Shares.'' The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, 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 parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Fund will be an actively managed ETF. The Shares will be offered by the Company, which was established as a Maryland corporation on December 2, 2011. The Company is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[4]

Description of the Shares and the Fund

BlackRock Fund Advisors is the investment adviser (''BFA'' or ''Adviser'') to the Fund.[5] BlackRock International Limited serves as sub-adviser for the Fund (''Sub-Adviser'').[6] State Street Bank and Trust Company is the administrator, custodian, and transfer agent for the Company. BlackRock Investments, LLC (''Distributor'') serves as the distributor for the Company.

BATS Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to BATS Rule 14.11(b)(5)(A)(i); however, Rule 14.11(i)(7) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser and Sub-Adviser are both affiliated with multiple broker-dealers and have both implemented ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, Adviser and Sub-Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund's portfolio. In the event that (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, they will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding such portfolio.

iShares Sovereign Screened Global Bond Fund

According to the Registration Statement, the Fund will seek to generate current income while striving to mitigate downside risk by investing principally in global sovereign debt obligations. To achieve its objective, the Fund will invest, under normal

[3] The Commission approved BATS Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018). Although the Fund would be the first actively-managed exchange traded fund (''ETF'') listed on the Exchange, the Commission has previously approved the listing and trading of a number of actively managed ETFs on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release Nos. 66343 (February 7, 2012), 77 FR 7647 (February 13, 2012) (SR–NYSEArca-2011–85) (order approving listing and trading of five actively managed ETFs); and 66345 (February 7, 2012), 77 FR 7643 (February 13, 2012) (SR–NYSEArca-2011–84) (order approving listing and trading of three actively managed ETFs, including Russell Bond ETF). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[4] *See* Registration Statement on Form N–1A for the Company, dated March 5, 2012 (File Nos. 333–179905 and 811–22674). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Company under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (''1940 Act'') (''Exemptive Order''). *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601).

[5] BlackRock Fund Advisors is an indirect wholly owned subsidiary of BlackRock, Inc.

[6] The Adviser manages the Fund's investments and its business operations subject to the oversight of the Board of Directors of the Company (''Board''). While BFA is ultimately responsible for the management of the Fund, it is able to draw upon the trading, research, and expertise of its asset management affiliates for portfolio decisions and management with respect to portfolio securities. Portfolio managers employed by the Adviser are generally responsible for day-to-day management of the Fund and, as such, typically make all decisions with respect to portfolio holdings. The Adviser also has ongoing oversight responsibility. The Sub-Adviser, subject to the supervision and oversight of the Board and BFA, will be primarily responsible for execution of securities transactions outside the United States and Canada and may, from time to time, participate in the management of specified assets in the Fund's portfolio. The Sub-Adviser may be responsible for the day-to-day management of the Fund.

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

circumstances,[8] at least 80% of its net assets in sovereign government bonds from both developed and emerging market countries. In the absence of normal circumstances, the Fund may temporarily depart from its normal investment process, provided that such departure is, in the opinion of the portfolio management team of the Fund, consistent with the Fund's investment objective and in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in response to adverse market, economic, or political conditions.

The Fund will hold sovereign debt obligations of at least 13 non-affiliated issuers. The Fund will not purchase the securities of issuers conducting their principal business activity in the same industry if, immediately after the purchase and as a result thereof, the value of the Fund's investments in that industry would equal or exceed 25% of the current value of the Fund's total assets, provided that this restriction does not limit the Fund's: (i) Investments in securities of other investment companies; (ii) investments in securities issued or guaranteed by the U.S. government, its agencies, or instrumentalities; or (iii) investments in repurchase agreements collateralized by U.S. government securities.[9] The Fund will not invest in equity securities.

The Fund intends to qualify each year as a regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[10] The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification, and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. The Subchapter M diversification tests generally require that (1) the Fund invest no more than 25% of its total assets in securities (other than securities of the U.S. government or other RICs) of any one issuer or two or more issuers that are controlled by the Fund and that are engaged in the same, similar, or related trades or businesses, and (2) at least 50% of the Fund's total assets consist of cash and cash items, U.S. government securities, securities of other RICs, and other securities, with investments in such other securities limited in respect of any one issuer to an amount not greater than 5% of the value of the Fund's total assets and not greater than 10% of the outstanding voting securities of such issuer.

Sovereign Debt

The Fund intends to achieve its investment objective by investing, under normal circumstances, at least 80% of its net assets in bonds denominated in local currencies and the U.S. dollar, issued by governments in both developed and emerging market countries.

The Fund intends to maintain specific exposure to global government bonds with targeted investment characteristics. The Adviser will utilize a model-based proprietary investment process to assemble the investment portfolio from a defined group of developed and emerging market countries across all credit rating categories, including below investment grade. The investment process primarily will utilize the universe of sovereign debt issuers included in the BlackRock Sovereign Risk Index, a proprietary model that scores countries using a comprehensive list of relevant fiscal, financial, and institutional metrics to assess sovereign credit risk. These country scores, along with other model-driven factors, will be used to construct the Fund's investment portfolio by screening out lower scoring countries and weighting the remaining sovereigns based on their scores. As of July 31, 2012, there were 48 countries in the universe of eligible countries, any of which may or may not be held by the Fund.[11] This proprietary investment process is intended to provide an increased exposure to sovereign debt securities issued by countries with higher credit quality, as defined by the model, than would a fund that seeks to replicate the performance of a broad global government bond index that is weighted more heavily towards countries based on their amount of debt outstanding. As of July 31, 2012, the following countries were included in the universe of eligible countries: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Croatia, the Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Malaysia, Mexico, the Netherlands, New Zealand, Norway, Peru, the Philippines, Poland, Portugal, Russia, South Africa, South Korea, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Taiwan, Thailand, Turkey, the United Kingdom, the United States, and Venezuela.[12] Countries may be added to, eliminated from, or replaced in the universe of eligible countries at any time, and the model may score countries differently over time, which means that countries may be added to, deleted from, or re-weighted within the model.

The universe of sovereign debt currently includes securities that are rated ''investment grade'' as well as ''below investment grade.'' [13] The Fund intends to provide an increased exposure to sovereign debt securities issued by countries with higher credit quality, as defined by the model, than would a fund that seeks to replicate the performance of a broad global government bond index that is weighted more heavily toward countries based on their amount of debt outstanding.[14] The Fund expects that, under normal circumstances, the securities included in the Fund will be primarily investment grade. As of July 31, 2012, 97% of the securities in the BlackRock Sovereign Risk Index were rated investment grade.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. Under normal circumstances, the effective duration of

[8] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot, or labor disruption, or any similar intervening circumstance.

[9] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[10] 26 U.S.C. 851.

[11] Countries must have at least $5 billion of outstanding debt principal amounts at the beginning of the calendar year in order to be included in the eligible universe.

[12] Each country's approximate value of outstanding debt principal amounts as of July 31, 2012, is as follows (in billions): Argentina $160; Australia $246; Austria $248; Belgium $421; Brazil $498; Canada $865; Chile $58; China $1,216; Colombia $76; Croatia $22; the Czech Republic $79; Denmark $133; Egypt $116; Finland $106; France $1,696; Germany $1,347; Greece $169; Hungary $86; India $593; Indonesia $112; Ireland $109; Israel $151; Italy $2,007; Japan $11,554; Malaysia $142; Mexico $379; the Netherlands $384; New Zealand $58; Norway $64; Peru $27; the Philippines $98; Poland $221; Portugal $143; Russia $140; Singapore $136; Slovakia $40; Slovenia $18; South Africa $138; South Korea $380; Spain $844; Sweden $143; Switzerland $98; Taiwan $162; Thailand $104; Turkey $265; the United Kingdom $1,878; the United States $10,743; and Venezuela $72.

[13] When constructing the model, the distribution of ratings across issues in each country will be considered in order to ensure that no single issue is over weighted and that the model is diversified. The ratings-based caps will be imposed on a per country basis, and will be generally as follows: AAA/AA=5%; A=4%; BBB=3%; Junk=2% (ratings are averaged across Moody's and S&P).

[14] The Fund will not invest in distressed debt.

the Fund's portfolio is expected to be 5–7 years, as calculated by the Adviser.[15]

Other Portfolio Holdings

While the Fund will invest at least 80% of its net assets in bonds denominated in local currencies and the U.S. dollar, issued by governments in both developed and emerging market countries, the Adviser expects that, under normal market circumstances, the Fund also intends to invest its remaining assets in money market securities (as described below) in a manner consistent with its investment objective in order to help manage cash flows in and out of the Fund, such as in connection with payment of dividends or expenses, and to satisfy margin requirements, to provide collateral, or to otherwise back investments in derivative instruments. For these purposes, money market securities include: short-term, high-quality obligations issued or guaranteed by the U.S. Treasury or the agencies or instrumentalities of the U.S. government; short-term, high-quality securities issued or guaranteed by non-U.S. governments, agencies, and instrumentalities; repurchase agreements backed by U.S. government securities; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. All money market securities acquired by the Fund will be rated investment grade. The Fund does not intend to invest in any unrated money market securities. However, it may do so, to a limited extent, such as where a rated money market security becomes unrated, if such money market security is determined by the Adviser or the Sub-Adviser to be of comparable quality.

Additionally, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities.[16] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

Pursuant to the Exemptive Order, the Fund will not invest in swap agreements, futures contracts, or option contracts. The Fund may invest in currency forwards for hedging against foreign currency exchange rate risk and/or trade settlement purposes.

The Shares

The Fund will issue and redeem Shares on a continuous basis at the net asset value per share (''NAV'')[17] only in large blocks of a specified number of Shares or multiples thereof (''Creation Units'') in transactions with authorized participants who have entered into agreements with the Distributor. The Fund currently anticipates that a Creation Unit will consist of 100,000 Shares, though this number may change from time to time, including prior to the listing of the Fund. The exact number of Shares that will comprise a Creation Unit will be disclosed in the Registration Statement of the Fund. Once created, Shares of the Fund trade on the secondary market in amounts less than a Creation Unit.

The consideration for purchase of Creation Units of the Fund generally will consist of the in-kind deposit of a designated portfolio of securities (including any portion of such securities for which cash may be substituted) (''Deposit Securities''), and the ''Cash Component'' computed as described below. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The portfolio of securities required for purchase of a Creation Unit may not be identical to the portfolio of securities the Fund will deliver upon redemption of Fund Shares. The Deposit Securities and Fund Securities (as defined below), as the case may be, in connection with a purchase or redemption of a Creation Unit, generally will correspond pro rata, to the extent practicable, to the securities held by the Fund.

The Cash Component will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which will be an amount equal to the market value of the Deposit Securities, and serve to compensate for any differences between the NAV per Creation Unit and the Deposit Amount. The Fund currently will offer Creation Units for in-kind deposits, but reserves the right to utilize a ''cash'' option in lieu of some or all of the applicable Deposit Securities for creation of Shares.

BFA will make available through the National Securities Clearing Corporation (''NSCC'') on each business day, prior to the opening of business on the Exchange, the list of names and the required number or par value of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information as of the end of the previous business day) for the Fund.

The identity and number or par value of the Deposit Securities may change pursuant to changes in the composition of the Fund's portfolio as rebalancing adjustments and corporate action events occur from time to time. The composition of the Deposit Securities may also change in response to adjustments to the weighting or composition of the holdings of the Fund.

The Fund reserves the right to permit or require the substitution of a ''cash in lieu'' amount to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the Depository Trust Company (''DTC'') or the clearing process through the NSCC.

Except as noted below, all creation orders must be placed for one or more Creation Units and must be received by the Distributor in proper form no later than 4:00 p.m., Eastern Time, in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of

[15] Effective duration is a measure of the potential responsiveness of a bond or portfolio price to small parallel shifts in interest rates. When measured across a portfolio, the effective duration of a portfolio is equivalent to the average portfolio duration.

[16] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[17] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m., Eastern Time (''NAV Calculation Time''). NAV per Share is calculated by dividing the Fund's net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund's NAV, see the Registration Statement.

the Fund as next determined on such date after receipt of the order in proper form. Orders requesting substitution of a ''cash in lieu'' amount generally must be received by the Distributor no later than 2:00 p.m., Eastern Time on the Settlement Date. The ''Settlement Date'' is generally the third business day after the transmittal date. On days when the Exchange or the bond markets close earlier than normal, the Fund may require orders to create or to redeem Creation Units to be placed earlier in the day.

Fund Deposits must be delivered through the Federal Reserve System (for cash and government securities), through DTC (for corporate and municipal securities), or through a central depository account, such as with Euroclear or DTC, maintained by State Street or a sub-custodian (''Central Depository Account'') by an authorized participant. Any portion of a Fund Deposit that may not be delivered through the Federal Reserve System or DTC must be delivered through a Central Depository Account. The Fund Deposit transfer must be ordered by the authorized participant in a timely fashion so as to ensure the delivery of the requisite number of Deposit Securities to the account of the Fund by no later than 3:00 p.m., Eastern Time on the Settlement Date.

A standard creation transaction fee will be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Shares of the Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a business day. BFA will make available through the NSCC, prior to the opening of business on the Exchange on each business day, the designated portfolio of securities (including any portion of such securities for which cash may be substituted) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Units.

Unless cash redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit generally will consist of a specified amount of cash, Fund Securities, plus additional cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after the receipt of a request in proper form, and the value of the specified amount of cash and Fund Securities, less a redemption transaction fee. The Fund currently will redeem Shares for Fund Securities, but the Fund reserves the right to utilize a ''cash'' option for redemption of Shares.

A standard redemption transaction fee will be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

Redemption requests for Creation Units of the Fund must be submitted to the Distributor by or through an authorized participant no later than 4:00 p.m., Eastern Time on any business day in order to receive that day's NAV. The authorized participant must transmit the request for redemption in the form required by the Fund to the Distributor in accordance with procedures set forth in the authorized participant agreement.

Additional information regarding the Shares and the Fund, including investment strategies, risks, creation and redemption procedures, fees and expenses, portfolio holdings disclosure policies, distributions, taxes, and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the Web site for the Fund (www.iShares.com), as applicable.

Availability of Information

The Fund's Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) the prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (''Bid/Ask Price''),[18] daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information will be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public Web sites. On each business day, before commencement of trading in Shares during Regular Trading Hours [19]on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (''Disclosed Portfolio'') held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[20] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting, and market value of fixed income securities and other assets held by the Fund and the characteristics of such assets. The Web site and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in BATS Rule 14.11(i)(3)(C) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[21] In addition, the quotations of certain of the Fund's holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States or if updated prices cannot be ascertained. Further, there may be periods of time during Regular Trading Hours during which the Intraday Indicative Value would be static to the extent securities that comprise the Fund's holdings are not actively trading.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and provide a close estimate of that value throughout the trading day.

Intraday, executable price quotations on sovereign bonds and other assets are available from major broker-dealer firms. Such intraday price information

[18] The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[19] Regular Trading Hours are 9:30 a.m. to 4:00 p.m., Eastern Time.

[20] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[21] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association (''CTA'') or other data feeds.

is available through subscription services, such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last-sale information for the Shares will be available on the facilities of the CTA.

Initial and Continued Listing

The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[22] A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt trading in the Shares under the conditions specified in BATS Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BATS will allow trading in the Shares from 8:00 a.m. until 5:00 p.m., Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BATS Rule 11.11(a), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[23] The Exchange prohibits the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening[24] and After Hours Trading Sessions[25] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) a reminder that there may be periods of time during Regular Trading Hours during which the Intraday Indicative Value would be static to the extent securities that comprise the Fund's holdings are not actively trading; (6) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (7) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site. In addition, the Information Circular will reference that the Company is subject to various fees and expenses described in the Fund's Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[26] in general and Section 6(b)(5) of the Act[27] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in BATS Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to

[22] *See* 17 CFR 240.10A–3.

[23] For a list of the current members and affiliate members of ISG, see *www.isgportal.com.*

[24] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m., Eastern Time.

[25] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m., Eastern Time.

[26] 15 U.S.C. 78f.

[27] 15 U.S.C. 78f(b)(5).

properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment adviser [sic] shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Adviser and Sub-Adviser are both affiliated with multiple broker-dealers and have implemented ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

According to the Registration Statement, the Fund expects that it will have at least 80% of its assets invested in sovereign bonds. The Fund's exposure to any single industry will generally be limited to 25% of the Fund's assets. Countries must have at least $5 billion of outstanding debt principal amounts at the beginning of the calendar year in order to be included in the eligible universe. The Fund expects that, under normal circumstances, the securities included in the Fund will be primarily investment grade. As of July 31, 2012, 97% of the securities in the BlackRock Sovereign Risk Index were rated investment grade. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. The Fund also may invest its net assets in money market instruments at the discretion of the Adviser or Sub-Adviser.

Additionally, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

Pursuant to the Exemptive Order, the Fund will not invest in swap agreements, futures contracts, or option contracts. The Fund may invest in currency forwards for hedging against foreign currency exchange rate risk and/or trade settlement purposes.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Pricing information will be available on the Fund's Web site including: (1) The prior business day's reported NAV, the Bid/Ask Price of the Fund, daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last-sale information for the Shares will be available on the facilities of the CTA, which contain information for widely followed indexes and securities traded on the Exchange. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in BATS Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to BATS Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holding, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last-sale information for the Shares.

Intraday, executable price quotations on global sovereign debt obligations and other assets are available from major broker-dealer firms. Such intraday price information is available through subscription services, such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last-sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change imposes any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal**

**Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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–BATS–2012–042 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–BATS–2012–042. 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–BATS–2012–042 and should be submitted on or before November 20, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–26639 Filed 10–29–12; 8:45 am]

**BILLING CODE 8011–01–P**

---

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–68100; File No. SR–CFE–2012–001]**

## Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt and Amend Certain Rules That Are Applicable to Security Futures

October 24, 2012.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 17, 2012, CBOE Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'') [2] on October 2, 2012 for effectiveness on October 17, 2012.

### I. Self-Regulatory Organization's Description of the Proposed Rule Change

The Exchange proposes to adopt and amend certain rules that are applicable to security futures traded on CFE. The only security futures currently traded on CFE are traded under Chapter 16 of CFE's Rulebook which is applicable to Individual Stock Based and Exchange-Traded Fund Based Volatility Index (''Volatility Index'') security futures. The rule amendments included as part of this rule change relate generally to improper trading practices, recordkeeping, reporting, and coordinated trading halts. The text of the proposed rule change is attached as Exhibit 4.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed CFE rule amendments included as part of this rule change is to amend CFE rules consistent with the rules, acceptable practices, and guidance adopted by the Commodity Futures Trading Commission (''CFTC'') under the caption Core Principles and Other Requirements for Designated Contract Markets (''DCMs'') and published in the **Federal Register** at 77 FR 36611 (June 19, 2012) (''CFTC Rulemaking''). The rule amendments included as part of this rule change are to apply to all products traded on CFE, including both non-security futures and security futures. CFE is making these rule amendments in conjunction with other rule amendments being made by CFE consistent with the CFTC Rulemaking that are not required to be submitted to the Commission pursuant to Section 19(b)(7) of the Act [3] and thus are not included as part of this rule change.

Improper Trading Practices

CFE is proposing to add to its Rules CFE Rule 616 relating to wash trades, CFE Rule 617 relating to money passes, CFE Rule 618 relating to accommodation trading, and CFE Rule 619 relating to front-running. In addition, CFE is proposing to add CFE Rule 620 to its Rulebook in order to specifically prohibit the disruptive practices enumerated in Section 4c(a)(5) of the Commodity Exchange Act,[4]

---

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 7 U.S.C. 7a–2(c).

[3] 15 U.S.C. 78s(b)(7).

[4] 7 U.S.C. 6c(a)(5).

which were added to the Act by Section 747 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.[5]

These abusive trading practices are already prohibited by CFE Rules. For example, CFE Rule 604 prohibits CFE Trading Privilege Holders and their Related Parties from engaging in conduct in violation of Applicable Law (which includes, among other things, the CEA,[6] CFTC regulations, and to the extent applicable, the Act[7] as well as Regulations under the Act), and CFE Rule 608 prohibits conduct inconsistent with just and equitable principles of trade.

Although these practices are already prohibited by other CFE rules, each of these practices as they relate to futures trading is now also proposed to be specifically addressed in CFE's Rulebook through the addition of the above rules. The addition of these rules is consistent with CFTC Regulation 38.152[8] which provides that DCMs must specifically prohibit certain trading practices and any other manipulative or disruptive practices prohibited by the CEA.[9]

CFE Rule 616 is proposed to provide that no Trading Privilege Holder nor any of its Related Parties shall place or accept buy and sell orders in the same CFE Contract and expiration month, and, for a put or call option, the same strike price, where the Trading Privilege Holder or Related Party knows or reasonably should know that the purpose of the orders is to avoid taking a bona fide market position exposed to market risk (transactions commonly known or referred to as wash trades). Buy and sell orders for different accounts with common beneficial ownership that are entered with the intent to negate market risk or price competition would also be deemed to violate the prohibition on wash trades. Additionally, Rule 616 is proposed to provide that no Trading Privilege Holder nor any of its Related Parties shall knowingly execute or accommodate the execution of such orders by direct or indirect means.

CFE Rule 617 regarding money passes is proposed to provide that no Trading Privilege Holder nor any of its Related Parties shall prearrange the execution of transactions on the Exchange for the purpose of passing money between accounts. Rule 617 would also require that all transactions executed on the Exchange must be made in good faith for the purpose of executing bona fide transactions and that prearranged trades intended to effectuate a transfer of funds from one account to another are prohibited.

CFE Rule 618 regarding accommodation trading is proposed to provide that no Trading Privilege Holder nor any of its Related Parties shall enter into non-competitive transactions on the Exchange for the purpose of assisting another Person to engage in transactions that are in violation of the Rules of the Exchange or Applicable Law.

CFE Rule 619 regarding front running is proposed to provide that no Trading Privilege Holder nor any of its Related Parties shall take a position in a CFE Contract based upon non-public information regarding an impending transaction by another Person in the same or a related Contract, except as expressly permitted by other enumerated Exchange Rules or in accordance with any policies or procedures for pre-execution discussions from time to time adopted by the Exchange.

CFE Rule 620 regarding disruptive practices is proposed to provide that no Trading Privilege Holder nor any of its Related Parties shall engage in any trading, practice, or conduct on the Exchange or subject to the Rules of the Exchange that (i) violates bids or offers; (ii) demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or (iii) is, is of the character of, or is commonly known in the trade as ''spoofing'' (bidding or offering with the intent to cancel the bid or offer before execution).

Rule 608, which already prohibits any act detrimental to the Exchange and conduct inconsistent with just and equitable principles of trade, is proposed to be revised to also prohibit abusive practices, including without limitation, fraudulent, noncompetitive, or unfair actions. The addition of this language is consistent with CFTC Regulation 38.651[10] which provides that a DCM must have and enforce rules that are designed to promote fair and equitable trading and to protect the market and market participants from abusive practices, including fraudulent, noncompetitive, or unfair actions, committed by any party.

Rule 608 and Rule 604 are also proposed to be amended to eliminate redundancy between the two rules. Rule 604 relates to adherence to law and is proposed to be amended to also prohibit Trading Privilege Holders and their Related Parties from engaging in conduct in violation of an agreement with the Exchange. This provision is currently in Rule 608, and CFE believes that a more logical place for it is in Rule 604. Therefore, the provision is proposed to be moved to Rule 604. Rule 608 is also proposed to be amended to delete a prohibition on violating Exchange and Clearing Corporation rules since this prohibition already exists in Rule 604.

Recordkeeping

CFE is proposing to further specify certain recordkeeping requirements in CFE's rules.

New CFE Rule 414(f) is proposed to be added to Rule 414 relating to Exchange of Contract for Related Position (''ECRP'') transactions and CFE Rule 415(e) relating to Block Trades is proposed to be amended to require every Trading Privilege Holder handling, executing, clearing, or carrying ECRP transactions, Block Trades, or ECRP or Block Trade positions to mark as such by appropriate symbol or designation all of these transactions or positions and all orders, records, and memoranda pertaining thereto. This change incorporates a requirement that already exists under CFTC Regulation 1.38(b)[11] and generally under CFE Rule 604, which requires adherence to CFTC regulations, and will now be specifically stated in CFE's rules. Additionally, current Rule 414(f) is proposed to be re-numbered as Rule 414(g) and to be amended to make clear that each Trading Privilege Holder involved in an ECRP transaction must maintain or be able to obtain from its Customer documentation relating to the Related Position portion of the ECRP transaction, including those documents customarily generated in accordance with Related Position market practices which demonstrate the existence and nature of the Related Position portion of the transaction.

CFE Rule 418(d) is proposed to be amended to provide that CFE will submit to the CFTC in accordance with CFTC Regulation 40.6[12] information on all regulatory actions carried out by CFE pursuant to Rule 418, which authorizes CFE to take various emergency actions.

CFE Rule 501(a) is proposed to be amended to provide that the books and records which each Trading Privilege Holder and CFE Clearing Member must maintain shall include, without limitation, records of the activity, positions, and transactions of each

[5] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[6] 7 U.S.C. 1 *et seq.*

[7] 15 U.S.C. 78a *et seq.*

[8] 17 CFR 38.152.

[9] 7 U.S.C. 1 *et seq.*

[10] 17 CFR 38.651.

[11] 17 CFR 1.38(b).

[12] 17 CFR 40.6.

Trading Privilege Holder and Clearing Member in the underlying commodity or reference market and related derivatives markets in relation to a CFE Contract. Additionally, Rule 501(c) is proposed to be revised to provide that if a CFE Contract is settled by reference to the price of a contract or commodity traded in another venue, including a price or index derived from prices on another designated contract market, Trading Privilege Holders shall make available to the Exchange upon request in a form and manner prescribed by the Exchange and within the time frame designated by the Exchange information and their books and records regarding their activities in the reference market. The addition of these requirements is consistent with the requirements of CFTC Regulation 38.253(b).[13]

CFE is proposing to specifically incorporate into its Rulebook certain CFTC Regulations relating to recordkeeping and to provide that a violation of any of those regulations shall be deemed a violation of a specific CFE Rule. These requirements are proposed to be incorporated into an Appendix to Chapter 5 of CFE's Rulebook, and CFE Rule 518 is proposed to be added as the first rule in this Appendix. Rule 518 is proposed to provide that without limiting the generality and applicability of the prior rules in Chapter 5, any other CFE rules, and Applicable Law, Trading Privilege Holders shall comply with the CFTC regulations relating to minimum financial requirements, financial reporting requirements, and protection of customer funds that are set forth in the Appendix to Chapter 5 to the extent that Trading Privilege Holders are subject to those CFTC regulations. Rule 518 is also proposed to provide that to the extent that any of the CFTC regulations set forth in the Appendix to Chapter 5 are amended from time to time by the CFTC, Trading Privilege Holders are required to comply with the CFTC regulations as amended, to the extent applicable, regardless of whether CFE has yet amended the Appendix to Chapter 5 to incorporate the amendments.

The recordkeeping requirements proposed to be included in the Appendix to Chapter 5 already exist generally under CFE Rule 604, which requires adherence to CFTC regulations, and will now be specifically incorporated into CFE's rules consistent with the provisions of CFTC Regulation 38.603.[14] In particular, CFE is proposing to add as part of the Appendix to Chapter 5 CFE Rule 522 which incorporates into CFE's Rulebook CFTC Regulation 1.18 (Records for and relating to Financial Reporting and Monthly Computation by Futures Commission Merchants and Introducing Brokers),[15] CFE Rule 528 which incorporates in CFE's Rulebook CFTC Regulation 1.25 (Investment of Customer Funds),[16] CFE Rule 530 which incorporates into CFE's Rulebook CFTC Regulation 1.27 (Record of Investments),[17] CFE Rule 534 which incorporates into CFE's Rulebook CFTC Regulation 1.31 (Books and Records; Keeping and Inspection),[18] CFE Rule 535 which incorporates into CFE's Rulebook CFTC Regulation 1.32 (Segregated Account; Daily Computation and Record),[19] and CFE Rule 536 which incorporates into CFE's Rulebook CFTC Regulation 1.36 (Record of Securities and Property Received from Customers and Options Customers).[20]

Reporting

Rule 501(a) is proposed to be revised to make clear that books and records required to be prepared and kept current under Rule 501(a) shall be made available to the Exchange in a form and manner prescribed by the Exchange and within the time frame designated by the Exchange when requested by the Exchange. Similarly, CFE Rules 502, 611(e), and 702(b) are proposed to be amended to make clear either that books and records requested by the Exchange be made available in a form and manner prescribed by the Exchange and/or within a time frame designated by the Exchange to the extent that this is not already stated explicitly in these rules.

CFE is also proposing to add CFE Rule 503A to its Rulebook which contains two reporting requirements. First, each Trading Privilege Holder that is a Futures Commission Merchant or Introducing Broker would be required, in a form and manner prescribed by the Exchange, to concurrently file with the Exchange a copy of all Form 1–FR–FCM, Form 1–FR–IB, or FOCUS Report Part II, IIA, or Part II CSE submissions, as applicable, made by the Trading Privilege Holder. Second, each Trading Privilege Holder that is a Futures Commission Merchant and (i) is not Clearing Member or (ii) is a Clearing Member that utilizes another Clearing Member for purposes of clearing Exchange Contracts would, in a form and manner prescribed by the Exchange, be required to provide a report to the Exchange on a daily basis which sets forth the positions, if any, in CFE Contracts of the Trading Privilege Holder's customers held by any Clearing Member in the customer range at CFE's Clearing Corporation. The receipt of this information will assist CFE in meeting its obligations under CFTC Regulations 38.603[21] and 38.604.[22]

As CFE is proposing to do with various recordkeeping requirements, CFE is also proposing to specifically incorporate into the new Appendix to Chapter 5 of its Rulebook a CFTC Regulation relating to reporting and to provide that a violation of this regulation shall be deemed a violation of a specific CFE Rule. Like with the foregoing recordkeeping requirements, the reporting requirements under this regulation already exist generally under CFE Rule 604, which requires adherence to CFTC regulations, and will now be specifically incorporated into CFE's rules consistent with the provisions of CFTC Regulation 38.603.[23] In particular, CFE is proposing to add CFE Rule 519 which incorporates into CFE's Rulebook CFTC Regulation 1.10 (Financial Reports of Futures Commission Merchants and Introducing Brokers).[24]

Trading Halts

CFE Rule 1602(i) already provides that trading in Volatility Index security futures shall be halted to the extent required by CFE Rule 417 relating to ''regulatory halts'' (as that term is defined in CFTC Regulation 41.1(l)[25]). One instance of a regulatory halt under CFTC Regulation 41.1(l)[26] is the operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on a national securities exchange or national securities association. Consistent with the foregoing and with other CFE Contract rule chapters, Rule 1602(i) also currently provides that trading in Volatility Index security futures shall be halted whenever a market-wide trading halt commonly known as a circuit breaker is in effect on the New York Stock Exchange in response to extraordinary market conditions. Because circuit breaker trading halt rules on securities exchanges are

[13] 17 CFR 38.253(b).

[14] 17 CFR 38.603.

[15] 17 CFR 1.18.

[16] 17 CFR 1.25.

[17] 17 CFR 1.27.

[18] 17 CFR 1.31.

[19] 17 CFR 1.32.

[20] 17 CFR 1.36.

[21] 17 CFR 38.603.

[22] 17 CFR 38.604.

[23] 17 CFR 38.603.

[24] 17 CFR 1.10.

[25] 17 CFR 41.1(l).

[26] 17 CFR 41.1(l).

changing effective February 4, 2013,[27] CFE is proposing to add substantively similar circuit breaker trading halt provisions which will be applicable to all CFE products in new CFE Rule 417A. CFE is also proposing to amend Rule 1602(i) to provide that its current reference to halting for New York Stock Exchange circuit breaker halts will apply prior to February 4, 2013 and that trading shall halt pursuant to the circuit breaker halt provisions of new Rule 417A on or after February 4, 2013.

New Rule 417A is proposed to provide that CFE shall halt trading in all CFE Contracts and shall not reopen for specified time periods if there is a Level 1, 2, or 3 Market Decline. Specifically, Rule 417A is proposed to provide that: A ''Market Decline'' means a decline in price of the S&P 500 Index between 8:30 a.m. and 3:00 p.m. (all times are CT) on a trading day as compared to the closing price of the S&P 500 Index for the immediately preceding trading day. The Level 1, Level 2, and Level 3 Market Declines that will be applicable for the trading day will be the levels publicly disseminated by securities information processors.[28] A ''Level 1 Market Decline'' means a Market Decline of 7%, a ''Level 2 Market Decline'' means a Market Decline of 13%, and a ''Level 3 Market Decline'' means a Market Decline of 20%. If a Level 1 or Level 2 Market Decline occurs after 8:30 a.m. and up to and including 2:25 p.m. or, in the case of an early scheduled close, 11:25 a.m., the Exchange shall halt trading in all CFE Contracts for 15 minutes after a Level 1 or Level 2 Market Decline. The Exchange shall halt trading based on a Level 1 or Level 2 Market Decline only once per trading day. The Exchange will not halt trading if a Level 1 or Level 2 Market Decline occurs after 2:25 p.m. or, in the case of an early scheduled close, 11:25 a.m. If a Level 3 Market Decline occurs at any time during the trading day, the Exchange shall halt trading in all CFE Contracts until the next trading day. If a circuit breaker is initiated in all Contracts due to a Level 1 or Level 2 Market Decline, the Exchange may resume trading in each CFE Contract anytime after the 15-minute halt period.

These changes to CFE's trading halt provisions are consistent with CFTC Regulation 38.255 [29] which provides that DCMs must establish and maintain risk control mechanisms to prevent and reduce the potential risk of price distortions and market disruptions, including, but not limited to, market restrictions that pause or halt trading in market conditions prescribed by the designated contract market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[30] in general, and furthers the objectives of Section 6(b)(5) [31] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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 addition of Rule 616 relating to wash trades, Rule 617 relating to money passes, Rule 618 relating to accommodation trading, Rule 619 relating to front-running, and Rule 620 relating to disruptive practices as well as the changes to Rules 604 and 608 will augment CFE's existing rules that prohibit fraudulent and manipulative acts and practices and conduct inconsistent with just and equitable principles of trade. By specifically enumerating these provisions in CFE's Rulebook and expanding the description of improper trading practices under CFE Rules, CFE's ability to protect investors and the public interest will be enhanced.

The recordkeeping provisions that CFE is adding to Rules 414, 415, 418, 501, 518, 522, 528, 530, and 534–536 and the reporting provisions that CFE is adding to Rules 501, 502, 503A, 519, 611, and 702 will also enhance CFE's ability to protect investors and the public interest and to enforce CFE Rules that prohibit fraudulent and manipulative acts and conduct inconsistent with just and equitable principles of trade. These recordkeeping requirements are designed to ensure that Trading Privilege Holders maintain records that enable CFE and/or other regulators to investigate whether Trading Privilege Holders are complying with applicable rules and regulations by requiring the maintenance of information that may be reviewed to determine whether or not a Trading Privilege Holder is complying with applicable regulatory requirements. Similarly, these reporting requirements are designed to enable CFE to receive and request information that allows CFE to monitor for compliance with rules and regulations, to investigate for noncompliance when appropriate, and to conduct financial monitoring with regard to CFE Trading Privilege Holders that are Futures Commission Merchants.

The new circuit breaker trading halt provisions that CFE is including in Rule 1602(i) and Rule 417A are designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, these provisions promote uniformity across securities and futures markets concerning when and how to halt trading as a result of extraordinary market volatility which in turn facilitates the protection of investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[32]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective on October 17, 2012.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[33]

## 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:

[27] *See, e.g.,* Chicago Board Options Exchange, Incorporated Rule 6.3B.

[28] CFE represents that the Level 1, Level 2, and Level 3 Market Declines that will be applicable for the trading day will be the levels publicly disseminated by securities information processors before 8:30 a.m.

[29] 17 CFR 38.255.

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

[32] 15 U.S.C. 78a *et seq.*

[33] 15 U.S.C. 78s(b)(1).

*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–CFE–2012–001 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–CFE–2012–001. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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–CFE–2012–001, and should be submitted on or before November 20, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–26642 Filed 10–29–12; 8:45 am]

**BILLING CODE 8011–01–P**

[34] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–68095, File No. SR–CBOE–2012–085]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Relating to the Complex Order Auction Process

October 24, 2012.

### I. Introduction

On August 30, 2012, the Chicago Board Options Exchange (''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 modify CBOE Rule 6.53C(d), ''Process for Complex Order RFR Auction,'' to: (i) Include the side of the market in the request for response (''RFR'') message sent to Trading Permit Holders at the start of a Complex Order Auction (''COA''); and (ii) require responses to an RFR message (''RFR Responses'') to be on the opposite side of the market from the order being auctioned in a COA. The proposed rule change was published for comment in the **Federal Register** on September 17, 2012.[3] The Commission received no comment letters regarding the proposal. This order approves the proposed rule change.

### II. Description of the Proposal

COA is an automated RFR auction process for COA-eligible orders.[4] On receipt of a COA-eligible order and a request from the Trading Permit Holder representing the order that the order be subjected to a COA, CBOE sends an RFR message to all Trading Permit Holders that have elected to receive RFR messages.[5] The RFR message identifies the component series, the size of the COA-eligible order, and any contingencies, if applicable, but not the side of the market (*i.e.* whether the order is to buy or to sell).[6] Responders to the COA, who do not know the side of the market of the order being auctioned, may submit RFR Responses on both sides of the market.[7] Because RFR Responses on the same side of the market as the COA-eligible order cannot trade with the order and thus are unnecessary, CBOE's trading system automatically rejects these RFR Responses.[8]

The Exchange proposes to amend CBOE Rule 6.53C(d) to: (i) Include the side of the market in the RFR message sent to Trading Permit Holders at the start of a COA; and (ii) require RFR Responses to be on the opposite side of the market from the order being auctioned in a COA. CBOE believes that these proposed changes will make the COA process more efficient by eliminating the entry of unnecessary RFR Responses that cannot trade with the COA order.[9] CBOE also believes that this increased efficiency could lead to more meaningful and competitively priced RFR Responses, which could result in better prices for customers.[10]

### III. Discussion

After careful consideration of the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] The Commission believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5) of the Act,[12] in particular, in that it is designed 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 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. More specifically, the Commission believes that the proposal could improve the efficiency of the COA process by eliminating unnecessary RFR Responses, which otherwise would have been rejected automatically by CBOE's trading system.

### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67827 (September 11, 2012), 77 FR 57171 (''Notice'').

[4] A ''COA-eligible order'' is a complex order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA considering the order's marketability (defined as a number of ticks away from the current market), size, complex order type, and complex order origin type. *See* CBOE Rule 6.53C(d)(i)(2).

[5] *See* CBOE Rule 6.53C(d)(ii).

[6] *See id.*

[7] *See* Notice, *supra* note 3, at 57172.

[8] *See id.*

[9] *See id.*

[10] *See id.*

[11] 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).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(2).

proposed rule change (SR–CBOE–2012–085) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–26640 Filed 10–29–12; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–68099; File No. SR–NYSEARCA–2012–115]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule To Change the Monthly Cost for Option Trading Permits

October 24, 2012.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 16, 2012, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') to change the monthly cost for Option Trading Permits (''OTPs''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its Fee Schedule to change the monthly cost for OTPs. The Exchange proposes to make the change immediately operative.

The Exchange requires that a Market Maker have an OTP in order to operate on the Exchange. For electronic Market Making, a Market Maker must have four OTPs in order to submit electronic quotations in every class on the Exchange. These four Market Maker OTPs also permit the firm to have at least one trader on the Floor of the Exchange as a Floor-based open outcry Market Maker. However, the manner in which those OTPs are assigned to individual traders may reduce the permissible number of issues in which electronic quotes are assigned. For instance, two associated Market Makers may assign OTP 1, 2, and 3 to trader A, while the fourth is assigned to trader B. Trader A may now only stream quotes electronically in 750 issues, while trader B may submit quotes electronically in 100 issues. To retain the appointment in more than 750 issues, all four OTPs must be in the same name, and to have an additional individual Market Maker on the Floor, a fifth OTP must be acquired.

To remain competitive in fixed fees among exchanges with trading floors, the Exchange is proposing to reduce the cost of additional Market Maker OTPs beyond the minimum of four that are required to submit electronic quotations in all issues listed on the Exchange. Accordingly, the Exchange proposes to specify that the existing fee of $4,000 per OTP per month would apply to a Market Maker firm that has between one and four Market Maker OTPs.[4] The Exchange would also specify that a Market Maker firm would be charged $2,000 per OTP per month for each additional Market Maker OTP. As described above, each additional Market Maker OTP would permit the Market Maker firm, which already has the ability to make electronic markets in every class on the Exchange, to have an additional trader on the Floor of the Exchange as an open outcry Market Maker.

The Exchange also proposes to adopt a similar reduction for additional OTPs for Floor Brokers as well as for Office and Clearing Firms.[5] In this regard, a firm is required to have one OTP per trader that operates as a Floor Broker on the Exchange. The OTP permits the Floor Broker to accept orders from all other firms and in all classes traded on the Exchange. However, for operational or administrative reasons, Floor Brokers often require an additional OTP in order to have sufficient clerical staff to satisfy their order entry obligations, including that orders be entered into the Exchange's systems via the Electronic Order Capture Device (''EOC'') prior to representation in the Trading Crowd.[6] The additional OTP is assigned to the same Floor Broker, and only that same Floor Broker may represent orders and execute trades on the Floor of the Exchange. The Exchange requires an additional OTP for each EOC login. However, the additional OTP assigned to a Floor Broker would not permit the firm to have an additional Floor Broker on the Floor.[7]

Accordingly, the Exchange proposes to specify that the existing fee of $1,000 per OTP per month would apply to a Floor Broker's first OTP and a charge of $250 per OTP per month would apply for each additional OTP.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[9] in general, and furthers the objectives of Section 6(b)(4) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange notes that this proposed change would not have an impact on a firm that currently has between one and four Market Maker OTPs.

[5] While the proposed change would technically apply to Office and Clearing Firms, these firms only need one OTP because they do not have personnel on the Floor of the Exchange.

[6] *See* Rule 6.1(b)(30), which defines Trading Crowd to mean all Market Makers who hold an appointment in the option classes at the trading post where such trading crowd is located and all Market Makers who regularly effect transactions in person for their Market Maker accounts at that trading post, but generally will consist of the individuals present at the trading post.

[7] The Exchange proposes to specify in the Fee Schedule that the additional OTP would not enable a second Floor Broker to operate on the Floor. A firm would be charged $1,000 for an OTP for a second trader acting as a Floor Broker on the Exchange.

[8] The Exchange notes that this proposed change would not have an impact on a firm that currently has one Floor Broker OTP.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable because it will lower the cost for firms to acquire additional Market Maker OTPs. The Exchange believes that the proposed OTP pricing may lead to, among other things, additional Market Makers quoting in open outcry, which would increase the quality of the Exchange's market by increasing the depth of liquidity on the Exchange, which will benefit investors.

The Exchange also believes that the proposed change is reasonable because it will lower the cost for firms to acquire additional OTPs related to their Floor Broker activity, which will allow Floor Broker firms to price their services at a level that will enable them to attract higher levels of volume to the Floor of the Exchange while satisfying the Exchange's requirements related to entering, reporting and managing Floor volume. To the extent that Floor Brokers are able to attract higher volumes, they will bring more liquidity and price discovery to the Exchange. The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because all firms may choose the particular type of OTP and function on the Exchange (e.g., Market Maker versus Floor Broker) that best suits their operational and business plans and needs.

The proposed change is also equitable and not unfairly discriminatory because it would lower the fees for additional OTPs beyond the minimum necessary in a manner that the Exchange believes reflects the differences in the roles and activity on the Exchange between different market participants. Specifically, the Exchange believes that it is equitable and not unfairly discriminatory to charge $2,000 for each additional Market Maker OTP beyond four, as compared to $250 for an additional OTP for a Floor Broker firm. In this regard, the additional Market Maker OTP would permit the firm, which already has the ability to make markets in every class on the Exchange, to have an additional trader on the Floor of the Exchange as an open outcry Market Maker. However, an additional OTP for a Floor Broker firm would not permit the firm to have a second trader on the Floor in the capacity of a Floor Broker, but would instead be utilized for operational/administrative purposes in order to satisfy applicable order entry and reporting requirements through EOC, for which one OTP per EOC login is required. Accordingly, this differential is equitable and not unfairly discriminatory because a Market Maker firm would derive an increased presence on the Floor via the additional OTP, but the Floor Broker firm would not. The Exchange believes that the additional OTP for the Market Maker firm, and in turn the increased presence on the Floor, could represent a proportionately increased economic value as compared to the additional OTP for the Floor Broker firm.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [11] of the Act and subparagraph (f)(2) of Rule 19b–4 [12] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Arca.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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–NYSEARCA–2012–115 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–NYSEARCA–2012–115. 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 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSEARCA–2012–115 and should be submitted on or before November 20, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–26641 Filed 10–29–12; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–68096, File No. SR–C2–2012–030]**

## Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Order Approving Proposed Rule Change Relating to the Complex Order Auction Process

October 24, 2012.

### I. Introduction

On August 30, 2012, the C2 Options Exchange, Incorporated (''Exchange'' or ''C2'') 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 modify C2 Rule 6.13(c), ''Process for Complex Order RFR Auction,'' to: (i) Include the side of the market in the request for response (''RFR'') message sent to Participants at the start of a Complex Order Auction (''COA''); and (ii) require responses to an RFR message (''RFR Responses'') to be on the opposite side of the market from the order being auctioned in a COA. The proposed rule change was published for comment in the **Federal Register** on September 17, 2012.[3] The Commission received no comment letters regarding the proposal. This order approves the proposed rule change.

### II. Description of the Proposal

COA is an automated RFR auction process for COA-eligible orders.[4] On receipt of a COA-eligible order and a request from the Participant representing the order that the order be subjected to a COA, C2 sends an RFR message to all Participants that have elected to receive RFR messages.[5] The RFR message identifies the component series, the size of the COA-eligible order, and any contingencies, if applicable, but not the side of the market (*i.e.* whether the order is to buy or to sell).[6] Responders to the COA, who do not know the side of the market of the order being auctioned, may submit RFR Responses on both sides of the market.[7] Because RFR Responses on the same side of the market as the COA-eligible order cannot trade with the order and thus are unnecessary, C2's trading system automatically rejects these RFR Responses.[8]

The Exchange proposes to amend C2 Rule 6.13(c) to: (i) Include the side of the market in the RFR message sent to Participants at the start of a COA; and (ii) require RFR Responses to be on the opposite side of the market from the order being auctioned in a COA. C2 believes that these proposed changes will make the COA process more efficient by eliminating the entry of unnecessary RFR Responses that cannot trade with the COA order.[9] C2 also believes that this increased efficiency could lead to more meaningful and competitively priced RFR Responses, which could result in better prices for customers.[10]

### III. Discussion

After careful consideration of the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] The Commission believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5) of the Act,[12] in particular, in that it is designed 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 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. More specifically, the Commission believes that the proposal could improve the efficiency of the COA process by eliminating unnecessary RFR Responses, which otherwise would been rejected automatically by C2's trading system.

### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–C2–2012–030) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–26638 Filed 10–29–12; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67828 (September 11, 2012), 77 FR 57173 (''Notice'').

[4] A ''COA-eligible order'' is a complex order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA considering the order's marketability (defined as a number of ticks away from the current market), size, complex order type, and complex order origin (*i.e.* non-broker-dealer public customer, broker-dealers that are not Market-Makers or specialist on an options exchange, and/or Market-makers or specialists on an options exchange). *See* C2 Rule 6.13(c)(1)(B).

[5] *See* C2 Rule 6.13(c)(2).

[6] *See id.*

[7] *See* Notice, *supra* note 3, at 57174.

[8] *See id.*

[9] *See id.*

[10] *See id.*

[11] 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).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

## SOCIAL SECURITY ADMINISTRATION

**[Docket No. SSA–2012–0054]**

## Cost-of-Living Increase and Other Determinations for 2013

**AGENCY:** Social Security Administration.

**ACTION:** Notice.

**SUMMARY:** Under title II of the Social Security Act (Act), there will be a 1.7 percent cost-of-living increase in Social Security benefits effective December 2012. As a result of this increase, the following items will increase for 2013:

(1) The maximum Federal Supplemental Security Income (SSI) monthly benefit amounts for 2013 under title XVI of the Act will be $710 for an eligible individual, $1,066 for an eligible individual with an eligible spouse, and $356 for an essential person;

(2) The special benefit amount under title VIII of the Act for certain World War II veterans will be $532.50 for 2013;

(3) The student earned income exclusion under title XVI of the Act will be $1,730 per month in 2013, but not more than $6,960 for all of 2013;

(4) The dollar fee limit for services performed as a representative payee will be $39 per month ($76 per month in the case of a beneficiary who is disabled and has an alcoholism or drug addiction condition that leaves him or her incapable of managing benefits) in 2013; and

(5) The dollar limit on the administrative cost assessment charged to attorneys representing claimants will be $88 in 2013.

The national average wage index for 2011 is $42,979.61. This index affects the following amounts:

(1) The Old-Age, Survivors, and Disability Insurance (OASDI) contribution and benefit base will be $113,700 for remuneration paid in 2013 and self-employment income earned in taxable years beginning in 2013;

(2) The monthly exempt amounts under the OASDI retirement earnings test for taxable years ending in calendar year 2013 will be $1,260 for years prior

to the year in which a person attains his or her Normal Retirement Age (NRA; defined later in this Notice) and $3,340 for the year in which a person attains his or her NRA;

(3) The dollar amounts (''bend points;'' defined later in this Notice) used in the primary insurance amount (PIA) benefit formula for workers who become eligible for benefits, or who die before becoming eligible, in 2013 will be $791 and $4,768;

(4) The bend points used in the formula for computing maximum family benefits for workers who become eligible for benefits, or who die before becoming eligible, in 2013 will be $1,011, $1,459, and $1,903;

(5) The amount of taxable earnings a person must have to be credited with a quarter of coverage in 2013 will be $1,160;

(6) The ''old-law'' contribution and benefit base under title II of the Act will be $84,300 for 2013;

(7) The monthly amount deemed to constitute substantial gainful activity for statutorily blind individuals in 2013 will be $1,740, and the corresponding amount for non-blind disabled persons will be $1,040;

(8) The earnings threshold establishing a month as a part of a trial work period will be $750 for 2013; and

(9) Coverage thresholds for 2013 will be $1,800 for domestic workers and $1,600 for election officials and election workers.

**FOR FURTHER INFORMATION CONTACT:** Susan C. Kunkel, Office of the Chief Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3000. Information relating to this announcement is available on our Internet site at *www.socialsecurity.gov/oact/cola/index.html.* For information on eligibility or claiming benefits, call 1–800–772–1213, or visit our Internet site, Social Security Online, at *www.socialsecurity.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Act, we must publish within 45 days after the close of the third calendar quarter of 2012 the benefit increase percentage and the revised table of ''special minimum'' benefits (section 215(i)(2)(D)). Also, we must publish on or before November 1 the national average wage index for 2011 (section 215(a)(1)(D)), the OASDI fund ratio for 2012 (section 215(i)(2)(C)(ii)), the OASDI contribution and benefit base for 2013 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 2013 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 2013 (section 203(f)(8)(A)), the formula for computing a PIA for workers who first become eligible for benefits or die in 2013 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 2013 (section 203(a)(2)(C)).

## Cost-of-Living Increases

### *General*

The cost-of-living increase is 1.7 percent for benefits under titles II and XVI of the Act. Under title II, OASDI benefits will increase by 1.7 percent for individuals eligible for December 2012 benefits, payable in January 2013. This increase is based on the authority contained in section 215(i) of the Act.

Pursuant to section 1617 of the Act, Federal SSI payment levels will also increase by 1.7 percent effective for payments made for the month of January 2013, but paid on December 31, 2012.

### *Computation*

Section 215(i)(1)(B) of the Act defines a ''computation quarter'' to be a third calendar quarter in which the average Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers exceeded the average CPI in the previous computation quarter. The last cost-of-living increase, effective for those eligible to receive title II benefits for December 2011, was based on the CPI increase from the third quarter of 2008 to the third quarter of 2011. Accordingly, the last computation quarter is the third quarter of 2011. The law stipulates that a cost-of-living increase for benefits is determined based on the percentage increase, if any, in the CPI from the last computation quarter to the third quarter of the current year. Therefore, we compute the increase in the CPI from the third quarter of 2011 to the third quarter of 2012.

Section 215(i)(1) of the Act provides that the CPI for a cost-of-living computation quarter is the arithmetic mean of this index for the 3 months in that quarter. In accordance with 20 CFR 404.275, we round the arithmetic mean, if necessary, to the nearest 0.001. The CPI for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 2011, is: For July 2011, 222.686; for August 2011, 223.326; and for September 2011, 223.688. The arithmetic mean for that calendar quarter is 223.233. The corresponding CPI for each month in the quarter ending September 30, 2012, is: For July 2012, 225.568; for August 2012, 227.056; and for September 2012, 228.184. The arithmetic mean for this calendar quarter is 226.936. The CPI for the calendar quarter ending September 30, 2012, exceeds that for the calendar quarter ending September 30, 2011 by 1.7 percent (rounded to the nearest 0.1), beginning December 2012. Therefore, a cost-of-living benefit increase of 1.7 percent is effective for benefits under title II of the Act.

Section 215(i) also specifies that a benefit increase under title II, effective for December of any year, will be limited to the increase in the national average wage index for the prior year if the OASDI fund ratio for that year is below 20.0 percent. The OASDI fund ratio for a year is the ratio of the combined assets of the Old-Age and Survivors Insurance and Disability Insurance Trust Funds at the beginning of that year to the combined expenditures of these funds during that year. For 2012, the OASDI fund ratio is assets of $2,677,925 million divided by estimated expenditures of $781,701 million, or 342.6 percent. Because the 342.6 percent OASDI fund ratio exceeds 20.0 percent, the benefit increase for December 2012 is not limited.

## Program Amounts That Change Based on the Cost-of-Living Increase

The following program amounts change based on the cost-of-living increase: (1) Title II; (2) title XVI; (3) title VIII; (4) the student earned income exclusion; (5) the fee for services performed by a representative payee; and (6) the attorney assessment fee.

### *Title II Benefit Amounts*

In accordance with section 215(i) of the Act, for workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 2013, benefits will increase by 1.7 percent beginning with benefits for December 2012, which are payable in January 2013. In the case of first eligibility after 2012, the 1.7 percent increase will not apply.

For eligibility after 1978, benefits are generally determined using a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, we determine benefits by means of a benefit table. The table is available on the Internet at *www.socialsecurity.gov/oact/progdata/tableForm.html* or by writing to: Social Security Administration, Office of Public Inquiries, Windsor Park Building, 6401 Security Boulevard, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act requires that, when we determine an increase in Social Security benefits, we will publish in the **Federal Register** a revision of the range of the PIAs and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). We refer to these benefits as special minimum benefits. These benefits are payable to certain individuals with long periods of relatively low earnings. To qualify for such benefits, an individual must have at least 11 years of coverage. To earn a year of coverage for purposes of the special minimum benefit, a person must earn at least a certain proportion of the ''old-law'' contribution and benefit base (described later in this notice). For years before 1991, the proportion is 25 percent; for years after 1990, it is 15 percent. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of PIAs and corresponding maximum family benefit amounts after the 1.7 percent benefit increase.

SPECIAL MINIMUM PIAS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DECEMBER 2012

| Number of years of coverage | Primary insurance amount | Maximum family benefit |
|---|---|---|
| 11 | $38.80 | $59.00 |
| 12 | 79.10 | 119.70 |
| 13 | 119.50 | 180.10 |
| 14 | 159.60 | 240.30 |
| 15 | 199.50 | 300.40 |
| 16 | 240.00 | 361.10 |
| 17 | 280.20 | 421.90 |
| 18 | 320.50 | 482.00 |
| 19 | 360.70 | 542.50 |
| 20 | 401.10 | 602.50 |
| 21 | 441.40 | 663.40 |
| 22 | 481.40 | 723.70 |
| 23 | 522.30 | 785.00 |
| 24 | 562.50 | 844.90 |
| 25 | 602.50 | 904.70 |
| 26 | 643.40 | 966.20 |
| 27 | 683.20 | 1,026.40 |
| 28 | 723.50 | 1,086.60 |
| 29 | 763.80 | 1,147.40 |
| 30 | 804.00 | 1,207.10 |

*Title XVI Benefit Amounts*

In accordance with section 1617 of the Act, maximum Federal SSI benefit amounts for the aged, blind, and disabled will increase by 1.7 percent effective January 2013. For 2012, we derived the monthly benefit amounts for an eligible individual, an eligible individual with an eligible spouse, and for an essential person—$698, $1,048, and $350, respectively—from corresponding yearly unrounded Federal SSI benefit amounts of $8,386.75, $12,578.71, and $4,202.98. For 2013, these yearly unrounded amounts increase by 1.7 percent to $8,529.32, $12,792.55, and $4,274.43, respectively. Each of these resulting amounts must be rounded, when not a multiple of $12, to the next lower multiple of $12. Accordingly, the corresponding annual amounts, effective for 2013, are $8,520, $12,792, and $4,272. Dividing the yearly amounts by 12 gives the corresponding monthly amounts for 2013—$710, $1,066, and $356, respectively. In the case of an eligible individual with an eligible spouse, we equally divide the amount payable between the two spouses.

*Title VIII Benefit Amount*

Title VIII of the Act provides for special benefits to certain World War II veterans residing outside the United States. Section 805 provides that the ''benefit under this title payable to a qualified individual for any month shall be in an amount equal to 75 percent of the Federal benefit rate [the maximum amount for an eligible individual] under title XVI for the month, reduced by the amount of the qualified individual's benefit income for the month.'' Accordingly, the monthly benefit for 2013 under this provision is 75 percent of $710, or $532.50.

*Student Earned Income Exclusion*

A blind or disabled child who is a student regularly attending school, college, university, or a course of vocational or technical training can have limited earnings that are not counted against his or her SSI benefits. The maximum amount of such income that may be excluded in 2012 is $1,700 per month, but not more than $6,840 in all of 2012. These amounts increase based on a formula set forth in regulation 20 CFR 416.1112.

To compute each of the monthly and yearly maximum amounts for 2013, we increase the corresponding unrounded amount for 2012 by the latest cost-of-living increase. If the amount so calculated is not a multiple of $10, we round it to the nearest multiple of $10. The unrounded monthly amount for 2012 is $1,696.85. We increase this amount by 1.7 percent to $1,725.70, which we then round to $1,730. Similarly, we increase the unrounded yearly amount for 2012, $6,840.00, by 1.7 percent to $6,956.28 and round this to $6,960. Accordingly, the maximum amount of the income exclusion applicable to a student in 2013 is $1,730 per month but not more than $6,960 in all of 2013.

*Fee for Services Performed as a Representative Payee*

Sections 205(j)(4)(A)(i) and 1631(a)(2)(D)(i) of the Act permit a qualified organization to collect from a beneficiary a monthly fee for expenses incurred in providing services performed as such beneficiary's representative payee. In 2012 the fee is limited to the lesser of: (1) 10 percent of the monthly benefit involved; or (2) $38 per month ($75 per month in any case in which the beneficiary is entitled to disability benefits and has an alcoholism or drug addiction condition that makes the individual incapable of managing such benefits). The dollar fee limits are subject to increase by the cost-of-living increase, with the resulting amounts rounded to the nearest whole dollar amount. Accordingly, we increase the current amounts by 1.7 percent to $39 and $76 for 2013.

*Attorney Assessment Fee*

Under sections 206(d) and 1631(d) of the Act, whenever we pay fees to an attorney who has represented a claimant, we must impose on the attorney an assessment to cover administrative costs. Such assessment is no more than 6.3 percent of the attorney's fee or, if lower, a dollar amount that is subject to increase by the cost-of-living increase. We derive the dollar limit for December 2012 by increasing the unrounded limit for December 2011, $86.87, by 1.7 percent, to $88.35. We then round $88.35 to the next lower multiple of $1. The dollar limit effective for December 2012 is, therefore, $88.

**National Average Wage Index for 2011**

*Computation*

We determined the national average wage index for calendar year 2011 based on the 2010 national average wage index of $41,673.83, announced in the **Federal Register** on October 25, 2011 (76 FR 66111), along with the percentage increase in average wages from 2010 to 2011, as measured by annual wage data. We tabulate the annual wage data, including contributions to deferred compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated directly from these data were $39,959.30 and $41,211.36 for 2010 and 2011, respectively. To determine the national average wage index for 2011 at a level that is consistent with the national average wage indexing series for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiply the 2010 national average wage index of $41,673.83 by the percentage increase in

average wages from 2010 to 2011 (based on SSA-tabulated wage data) as follows, with the result rounded to the nearest cent.

*Amount*

Multiplying the national average wage index for 2010 ($41,673.83) by the ratio of the average wage for 2011 ($41,211.36) to that for 2010 ($39,959.30) produces the 2011 index, $42,979.61. The national average wage index for calendar year 2011 is about 3.13 percent higher than the 2010 index.

**Program Amounts That Change Based on the National Average Wage Index**

Under various provisions of the Act, the following amounts change with annual changes in the national average wage index: (1) The OASDI contribution and benefit base; (2) the exempt amounts under the retirement earnings test; (3) the dollar amounts, or ''bend points'' in the PIA; (4) the bend points in the maximum family benefit formula; (5) the amount of earnings required for a worker to be credited with a quarter of coverage; (6) the ''old-law'' contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments); (7) the substantial gainful activity amount applicable to statutorily blind individuals; and (8) the coverage threshold for election officials and election workers. Also, section 3121(x) of the Internal Revenue Code requires that the domestic employee coverage threshold be based on changes in the national average wage index.

In addition to the amounts required by statute, two amounts increase under regulatory requirements—the substantial gainful activity amount applicable to non-blind disabled persons, and the monthly earnings threshold that establishes a month as part of a trial work period for disabled beneficiaries.

**OASDI Contribution and Benefit Base**

*General*

The OASDI contribution and benefit base is $113,700 for remuneration paid in 2013 and self-employment income earned in taxable years beginning in 2013. The OASDI contribution and benefit base serves as the maximum annual amount of earnings on which OASDI taxes are paid. It is also the maximum annual amount of earnings used in determining a person's OASDI benefits.

*Computation*

Section 230(b) of the Act provides the formula used to determine the OASDI contribution and benefit base. Under the formula, the base for 2013 is the larger of: (1) The 1994 base of $60,600 multiplied by the ratio of the national average wage index for 2011 to that for 1992; or (2) the current base ($110,100). If the resulting amount is not a multiple of $300, it is rounded to the nearest multiple of $300.

*Amount*

Multiplying the 1994 OASDI contribution and benefit base amount ($60,600) by the ratio of the national average wage index for 2011 ($42,979.61 as determined above) to that for 1992 ($22,935.42) produces the amount of $113,560.79. We round this amount to $113,700. Because $113,700 exceeds the current base amount of $110,100, the OASDI contribution and benefit base is $113,700 for 2013.

**Retirement Earnings Test Exempt Amounts**

*General*

We withhold Social Security benefits when a beneficiary under the NRA has earnings in excess of the applicable retirement earnings test exempt amount. NRA is the age of initial benefit entitlement for which the benefit, before rounding, is equal to the worker's PIA. The NRA is age 66 for those born in 1943–54, and it gradually increases reaching age 67 for those born in 1960 or later. A higher exempt amount applies in the year in which a person attains his or her NRA, but only with respect to earnings in months prior to such attainment, and a lower exempt amount applies at all other ages below NRA. Section 203(f)(8)(B) of the Act, as amended by section 102 of Public Law 104–121, provides formulas for determining the monthly exempt amounts. The corresponding annual exempt amounts are exactly 12 times the monthly amounts.

For beneficiaries attaining NRA in the year, we withhold $1 in benefits for every $3 of earnings in excess of the annual exempt amount for months prior to such attainment. For all other beneficiaries under NRA, we withhold $1 in benefits for every $2 of earnings in excess of the annual exempt amount.

*Computation*

Under the formula applicable to beneficiaries who are under NRA and who will not attain NRA in 2013, the lower monthly exempt amount for 2013 is the larger of: (1) The 1994 monthly exempt amount multiplied by the ratio of the national average wage index for 2011 to that for 1992; or (2) the 2012 monthly exempt amount ($1,220). If the resulting amount is not a multiple of $10, it is rounded to the nearest multiple of $10.

Under the formula applicable to beneficiaries attaining NRA in 2013, the higher monthly exempt amount for 2013 is the larger of: (1) The 2002 monthly exempt amount multiplied by the ratio of the national average wage index for 2011 to that for 2000; or (2) the 2012 monthly exempt amount ($3,240). If the resulting amount is not a multiple of $10, it is rounded to the nearest multiple of $10.

*Lower Exempt Amount*

Multiplying the 1994 retirement earnings test monthly exempt amount of $670 by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1992 ($22,935.42) produces the amount of $1,255.54. We round this to $1,260. Because $1,260 exceeds the corresponding current exempt amount of $1,220, the lower retirement earnings test monthly exempt amount is $1,260 for 2013. The corresponding lower annual exempt amount is $15,120 under the retirement earnings test.

*Higher Exempt Amount*

Multiplying the 2002 retirement earnings test monthly exempt amount of $2,500 by the ratio of the national average wage index for 2011 ($42,979.61) to that for 2000 ($32,154.82) produces the amount of $3,341.61. We round this to $3,340. Because $3,340 exceeds the corresponding current exempt amount of $3,240, the higher retirement earnings test monthly exempt amount is $3,340 for 2013. The corresponding higher annual exempt amount is $40,080 under the retirement earnings test.

**Primary Insurance Amount (PIA) Benefit Formula**

*General*

The Social Security Amendments of 1977 provided a method for computing benefits that generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's average indexed monthly earnings (AIME) to compute the PIA. We adjust the computation formula each year to reflect changes in general wage levels, as measured by the national average wage index.

We also adjust, or index, a worker's earnings to reflect the change in the general wage levels that occurred during the worker's years of employment. Such indexing ensures that a worker's future benefit level will reflect the general rise in the standard of living that will occur during his or her working lifetime. To compute the AIME, we first determine

the required number of years of earnings. We then select the number of years with the highest indexed earnings, add the indexed earnings for those years, and divide the total amount by the total number of months in those years. We then round the resulting average amount down to the next lower dollar amount. The result is the AIME.

*Computing the PIA*

The PIA is the sum of three separate percentages of portions of the AIME. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. We call the dollar amounts in the formula governing the portions of the AIME the ''bend points'' of the formula. Therefore, the bend points for 1979 were $180 and $1,085.

To obtain the bend points for 2013, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2011 to that average for 1977. We then round these results to the nearest dollar. Multiplying the 1979 amounts of $180 and $1,085 by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1977 ($9,779.44) produces the amounts of $791.08 and $4,768.46. We round these to $791 and $4,768. Accordingly, the portions of the AIME to be used in 2013 are the first $791, the amount between $791 and $4,768, and the amount over $4,768.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 2013, or who die in 2013 before becoming eligible for benefits, their PIA will be the sum of:

(a) 90 percent of the first $791 of their AIME, plus
(b) 32 percent of their AIME over $791 and through $4,768, plus
(c) 15 percent of their AIME over $4,768

We round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment described above are contained in section 215(a) of the Act.

**Maximum Benefits Payable to a Family**

*General*

The 1977 amendments continued the long-established policy of limiting the total monthly benefits that a worker's family may receive based on his or her PIA. Those amendments also continued the then-existing relationship between maximum family benefits and PIAs, but changed the method of computing the maximum amount of benefits that may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a formula for computing the maximum benefits payable to the family of a disabled worker. This formula applies to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. For disabled workers initially entitled to disability benefits before July 1980 or whose disability began before 1979, we compute the family maximum payable the same as the old-age and survivor family maximum.

*Computing the Old-Age and Survivor Family Maximum*

The formula used to compute the family maximum is similar to that used to compute the PIA. It involves computing the sum of four separate percentages of portions of the worker's PIA. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. We refer to such dollar amounts in the formula as the bend points of the family-maximum formula.

To obtain the bend points for 2013, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2011 to that average for 1977. Then we round this amount to the nearest dollar. Multiplying the amounts of $230, $332, and $433 by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1977 ($9,779.44) produces the amounts of $1,010.83, $1,459.11, and $1,902.99. We round these amounts to $1,011, $1,459, and $1,903. Accordingly, the portions of the PIAs to be used in 2013 are the first $1,011, the amount between $1,011 and $1,459, the amount between $1,459 and $1,903, and the amount over $1,903.

Consequently, for the family of a worker who becomes age 62 or dies in 2013 before age 62, we will compute the total amount of benefits payable to them so that it does not exceed:

(a) 150 percent of the first $1,011 of the worker's PIA, plus
(b) 272 percent of the worker's PIA over $1,011 through $1,459, plus
(c) 134 percent of the worker's PIA over $1,459 through $1,903, plus
(d) 175 percent of the worker's PIA over $1,903

We then round this amount to the next lower multiple of $0.10, if it is not already a multiple of $0.10. This formula and the rounding adjustment described above are contained in section 203(a) of the Act.

**Quarter of Coverage Amount**

*General*

The amount of earnings required for a quarter of coverage in 2013 is $1,160. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, we generally credited an individual with a quarter of coverage for each quarter in which wages of $50 or more were paid, or with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, employers generally report wages on an annual basis instead of a quarterly basis. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978, up to a maximum of 4 quarters of coverage for the year.

*Computation*

Under the prescribed formula, the quarter of coverage amount for 2013 is the larger of (1) the 1978 amount of $250 multiplied by the ratio of the national average wage index for 2011 to that for 1976; or (2) the current amount of $1,130. Section 213(d) provides that if the resulting amount is not a multiple of $10, it is rounded to the nearest multiple of $10.

*Quarter of Coverage Amount*

Multiplying the 1978 quarter of coverage amount ($250) by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1976 ($9,226.48) produces the amount of $1,164.57. We then round this amount to $1,160. Because $1,160 exceeds the current amount of $1,130, the quarter of coverage amount is $1,160 for 2013.

**''Old-Law'' Contribution and Benefit Base**

*General*

The ''old-law'' contribution and benefit base for 2013 is $84,300. This base would have been effective under the Act without the enactment of the 1977 amendments.

The ''old-law'' contribution and benefit base is used by:

(a) the Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments that correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum

amount of pension guaranteed under the Employee Retirement Income Security Act (section 230(d) of the Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the ''old-law'' base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

*Computation*

The ''old-law'' contribution and benefit base is the larger of: (1) The 1994 ''old-law'' base ($45,000) multiplied by the ratio of the national average wage index for 2011 to that for 1992; or (2) the current ''old-law'' base ($81,900). If the resulting amount is not a multiple of $300, it is rounded to the nearest multiple of $300.

*Amount*

Multiplying the 1994 ''old-law'' contribution and benefit base amount ($45,000) by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1992 ($22,935.42) produces the amount of $84,327.32. We round this amount to $84,300. Because $84,300 exceeds the current amount of $81,900, the ''old-law'' contribution and benefit base is $84,300 for 2013.

**Substantial Gainful Activity Amounts**

*General*

A finding of disability under titles II and XVI of the Act requires that a person, except for a title XVI disabled child, be unable to engage in substantial gainful activity (SGA). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability. Section 223(d)(4)(A) of the Act specifies a higher SGA amount for statutorily blind individuals under title II while Federal regulations (20 CFR 404.1574 and 416.974) specify a lower SGA amount for non-blind individuals.

*Computation*

The monthly SGA amount for statutorily blind individuals under title II for 2013 is the larger of: (1) Such amount for 1994 multiplied by the ratio of the national average wage index for 2011 to that for 1992; or (2) such amount for 2012. The monthly SGA amount for non-blind disabled individuals for 2013 is the larger of: (1) Such amount for 2000 multiplied by the ratio of the national average wage index for 2011 to that for 1998; or (2) such amount for 2012. In either case, if the resulting amount is not a multiple of $10, it is rounded to the nearest multiple of $10.

*SGA Amount for Statutorily Blind Individuals*

Multiplying the 1994 monthly SGA amount for statutorily blind individuals ($930) by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1992 ($22,935.42) produces the amount of $1,742.76. We then round this amount to $1,740. Because $1,740 exceeds the current amount of $1,690, the monthly SGA amount for statutorily blind individuals is $1,740 for 2013.

*SGA Amount for Non-Blind Disabled Individuals*

Multiplying the 2000 monthly SGA amount for non-blind individuals ($700) by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1998 ($28,861.44) produces the amount of $1,042.42. We then round this amount to $1,040. Because $1,040 exceeds the current amount of $1,010, the monthly SGA amount for non-blind disabled individuals is $1,040 for 2013.

**Trial Work Period Earnings Threshold**

*General*

During a trial work period of 9 months in a rolling 60-month period, a beneficiary receiving Social Security disability benefits may test his or her ability to work and still receive monthly benefit payments. To be considered a trial work period month, earnings must be over a certain level. In 2013, any month in which earnings exceed $750 is considered a month of services for an individual's trial work period.

*Computation*

The method used to determine the new amount is set forth in our regulations at 20 CFR 404.1592(b). Monthly earnings in 2013, used to determine whether a month is part of a trial work period, is such amount for 2001 ($530) multiplied by the ratio of the national average wage index for 2011 to that for 1999 or, if larger, such amount for 2012. If the amount so calculated is not a multiple of $10, we round it to the nearest multiple of $10.

*Amount*

Multiplying the 2001 monthly earnings threshold ($530) by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1999 ($30,469.84) produces the amount of $747.60. We then round this amount to $750. Because $750 exceeds the current amount of $720, the monthly earnings threshold is $750 for 2013.

**Domestic Employee Coverage Threshold**

*General*

The minimum amount a domestic worker must earn so that such earnings are covered under Social Security or Medicare is the domestic employee coverage threshold. For 2013, this threshold is $1,800. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

*Computation*

Under the formula, the domestic employee coverage threshold amount for 2013 is equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 2011 to that for 1993. If the resulting amount is not a multiple of $100, it is rounded to the next lower multiple of $100.

*Domestic Employee Coverage Threshold Amount*

Multiplying the 1995 domestic employee coverage threshold amount ($1,000) by the ratio of the national average wage index for 2011 ($42,979.61) to that for 1993 ($23,132.67) produces the amount of $1,857.96. We then round this amount to $1,800. Accordingly, the domestic employee coverage threshold amount is $1,800 for 2013.

**Election Official and Election Worker Coverage Threshold**

*General*

The minimum amount an election official and election worker must earn so that such earnings are covered under Social Security or Medicare is the election official and election worker coverage threshold. For 2013, this threshold is $1,600. Section 218(c)(8)(B) of the Act provides the formula for increasing the threshold.

*Computation*

Under the formula, the election official and election worker coverage threshold amount for 2013 is equal to the 1999 amount of $1,000 multiplied by the ratio of the national average wage index for 2011 to that for 1997. If the amount so determined is not a multiple of $100, it is rounded to the nearest multiple of $100.

*Election Worker Coverage Threshold Amount*

Multiplying the 1999 election worker coverage threshold amount ($1,000) by

the ratio of the national average wage index for 2011 ($42,979.61) to that for 1997 ($27,426.00) produces the amount of $1,567.11. We then round this amount to $1,600. Accordingly, the election worker coverage threshold amount is $1,600 for 2013.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.004 Social Security-Survivors Insurance; 96.006 Supplemental Security Income)

Dated: October 23, 2012.

**Michael J. Astrue,**

*Commissioner of Social Security.*

[FR Doc. 2012–26663 Filed 10–29–12; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF STATE

**[Public Notice 8077]**

### U.S. National Commission for UNESCO; Notice of Meeting

The U.S. National Commission for UNESCO will host its Annual Meeting on Monday, November 26, from 10:00 a.m. until 3:30 p.m. E.S.T. The meeting will convene in room 309 of the George Washington University Marvin Center at 800 21st Street NW., Washington, DC.

The meeting will have a series of speakers offering information about UNESCO and the current state of United States engagement with the Organization. The meeting will also feature a public comment session, limited to approximately 15 minutes in total, with two minutes allowed per speaker.

For more information or to arrange to participate in this meeting (including requests for reasonable accommodation), individuals should contact Francine Randolph, Office of UNESCO Affairs, Washington, DC 20037. Telephone (202) 663–0026; Fax (202) 663–0035.

The National Commission may be contacted via email at *DCUNESCO@state.gov,* or via phone at (202) 663–0026. Its Web site can be accessed at: *http://www.state.gov/p/io/unesco/*.

Dated: October 19, 2012.

**Kelly O. Siekman,**

*National Commission for UNESCO, Department of State.*

[FR Doc. 2012–26673 Filed 10–29–12; 8:45 am]

**BILLING CODE 4710–19–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Request for Public Comments To Compile the Reports on Sanitary and Phytosanitary and Technical Barriers to Trade

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice and Request for Comments.

**SUMMARY:** Pursuant to section 181 of the Trade Act of 1974, as amended (19 U.S.C. 2241), the Office of the United States Trade Representative (USTR) is required to publish annually the Reports on Sanitary and Phytosanitary and Technical Barriers to Trade. With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested persons to submit comments to assist it in identifying significant sanitary and phytosanitary and standards-related barriers to U.S. exports of goods for inclusion in these two reports.

These reports were published as the 2012 Report on Sanitary and Phytosanitary Measures (2012 SPS Report) and the 2012 Report on Technical Barriers to Trade (2012 TBT Report) respectively. The TPSC invites written comments from the public on issues that USTR should examine in preparing the SPS and TBT Reports.

**DATES:** Public comments are due not later than November 15, 2012.

**ADDRESSES:** Submissions should be made via the Internet at *www.regulations.gov* under the following dockets (based on the subject matter of the submission):

*SPS Measures:* USTR–2012–0032.

*Standards-related Measures:* USTR–2012–0033.

For alternatives to on-line submissions please contact TBD USTR (202–395–3475). The public is strongly encouraged to file submissions electronically rather than by facsimile or mail.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding the SPS Report or substantive questions or comments concerning SPS measures should be directed to Jane Doherty, Director of Sanitary and Phytosanitary Affairs, USTR (202–395–6127). Questions regarding the TBT Report or substantive questions or comments concerning standards-related measures should be directed to Jennifer Stradtman, Director, Technical Barriers to Trade, USTR (202–395–4498).

**SUPPLEMENTARY INFORMATION:** The SPS and TBT Reports set out inventories of SPS and standards-related non-tariff barriers to trade. These inventories facilitate U.S. negotiations aimed at reducing or eliminating these barriers. The reports also provide a valuable tool in enforcing U.S. trade laws and strengthening the rules-based trading system. The 2012 and earlier SPS and TBT Reports may be found on USTR's Internet Home Page (*http://www.ustr.gov*) under ''USTR News'' under the tab ''Reports''.

To ensure compliance with the applicable statutory mandate and the Obama Administration's commitment to focus on the most significant foreign trade barriers, USTR will be guided by the existence of active private sector interest in deciding which restrictions to include in the SPS and TBT Reports.

*Topics on which the TPSC Seeks Information:* To assist USTR in the preparation of the SPS and TBT Reports, commenters should submit information related to:(1) SPS measures; or(2) standards-related measures (including standards, technical regulations, and conformity assessment procedures). Such measures should constitute significant foreign trade barriers to U.S. exports.

*SPS and TBT Reports:* On April 2, 2012, USTR released two reports focusing on foreign trade barriers—one on SPS measures (SPS Report) and the other on standards-related measures (TBT report). USTR also released SPS and TBT Reports in 2011 and 2010. These reports serve as tools to bring greater attention and focus to resolving SPS and standards-related measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant foreign barriers to U.S. exports. USTR plans to use comments on SPS and standards-related measures submitted pursuant to this notice in producing these two reports.

The following information describing SPS and standards-related measures may help commenters to file submissions on particular foreign trade barriers under the appropriate docket.

*SPS Measures:* Generally, SPS measures are measures applied to protect the life or health of humans, animals, and plants from risks arising from additives, contaminants, pests, toxins, diseases, or disease-carrying and causing organisms. SPS measures can take such forms as specific product or processing standards, requirements for products to be produced in disease-free areas, quarantine regulations, certification or inspection procedures, sampling and testing requirements, health-related labeling measures, maximum permissible pesticide residue

levels, and prohibitions on certain food additives.

*Standards-related Measures:* Standards-related measures comprise standards, technical regulations, and conformity assessment procedures, such as mandatory process or design standards, labeling or registration requirements, and testing or certification procedures. Standards-related measures can be applied not only to industrial products but to agricultural products as well, such as food nutrition labeling schemes and food quality or identity requirements.

For further information on SPS and standards-related measures and additional detail on the types of comments that would assist USTR in identifying and addressing significant trade-restrictive SPS and standards-related measures, please see ''Supporting & Related Materials'' under dockets USTR–2012–0032 and USTR–2012–0033 at *www.regulations.gov*. The previously released SPS and TBT Reports also contain extensive information on SPS and standards-related measures that commenters may find useful in preparing comments in response to this notice.

In responding to this notice with respect to the two reports, commenters should place particular emphasis on any practices that may violate U.S. trade agreements. The TPSC is also interested in receiving new or updated information pertinent to the barriers covered in the 2012 SPS and TBT Reports as well as information on new barriers. If USTR does not include in the 2013 SPS or TBT Reports information that USTR receives pursuant to this notice, USTR will maintain the information for potential use in future discussions or negotiations with trading partners.

*Estimate of Increase in Exports:* Each comment should include an estimate of the potential increase in U.S. exports that would result from removing any foreign trade barrier the comment identifies, as well as a description of the methodology the commenter used to derive the estimate. Estimates should be expressed within the following value ranges: Less than $5 million; $5 to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or over $500 million. These estimates will help USTR conduct comparative analyses of a barrier's effect over a range of industries.

*Requirements for Submissions:* Commenters providing information on SPS or standards-related measures in more than one country should, whenever possible, provide a separate submission for each country.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *http://www.regulations.gov* Web site. Comments should be submitted under one of the following dockets (depending on the subject of the comment):

*SPS Measures:* USTR–2012–0032.

*Standards-related Measures:* USTR–2012–0033.

To find these dockets, enter the pertinent docket number in the ''Enter Keyword or ID'' window at the *http://www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with that docket number. Find a reference to this notice by selecting ''Notices'' under ''Document Type'' on the search-results page, and click on the link entitled ''Submit a Comment.'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''Help'' tab.)

The *http://www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. USTR prefers submissions to be provided in an attached document. If a document is attached, please identify the name of the country to which the submission pertains in the ''Comments'' field. For example: ''See attached comment on SPS measures for (name of country)'' or ''See attached comment on standards-related measures for (name of country)''. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf).

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. The top of any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL''. Any person filing comments that contain business confidential information must also file in a separate submission a public version of the comments. The file name of the public version of the comments should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. If a comment contains no business confidential information, the file name should begin with the character ''P'', followed by the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

**Public Inspection of Submissions**

Comments will be placed in the docket and open to public inspection except confidential business information exempt from public inspection. Comments may be viewed on the *http://www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

**Douglas M. Bell,**

*Chair, Trade Policy Staff Committee.*

[FR Doc. 2012–26537 Filed 10–29–12; 8:45 am]

BILLING CODE 3290–F3–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2012–40]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (CFR) part 25. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before November 19, 2012.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2012–0956 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Michael Menkin, ANM–113, Standardization Branch, Federal Aviation Administration, Transport Airplane Directorate, 1601 Lind Ave. SW., Renton, WA 98057; email *michael.menkin@FAA.gov;* 425–227–2793; fax: 425–227–1320; or Andrea Copeland, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW.; Washington, DC 20591; email *andrea.copeland @faa.gov;* (202) 267–8081.

Issued in Washington, DC, on October 22, 2012.

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2012–0956.

*Petitioner:* The Boeing Company.

*Section of 14 CFR Affected:* § 25.785(j), 25.795(b)(2), (c)(1) and (c)(3), 25.809(a), 25.810(a)(1) 25.857(e), and 25.1447(c)(1).

*Description of Relief Sought.* The petitioner requests relief from:

1. Restrictions on crew members carried on airplanes with Class E cargo compartments to allow carriage of up to eleven supernumeraries on the Boeing 767–2C freighter and to allow them access to the Class E cargo compartment for the care and inspection of animals;

2. The requirement for escape slides for emergency exists greater than six feet above the ground by using inertial reel descent devices from the forward entry and service doors instead of slides;

3. The requirement that the contact area for inertial reel descent devices be seen from closed doors;

4. The requirement that handholds are provided inside the accessible main deck cargo compartment;

5. Providing a means to prevent passenger incapacitation in the cabin resulting from smoke, fumes, or noxious gases of an explosive or incendiary device;

6. The requirement for a designated location where a bomb or other explosive device could be placed to best protect flight-critical structures and systems from damage in the case of detonation (least risk bomb location);

7. The requirement that the passenger cabin be designed to facilitate searches for an explosive or incendiary device; and

8. The requirement that an auto-presenting oxygen dispensing unit is provided for each supernumerary that is seated or is inside the cargo compartment during flight. Oxygen masks are presented manually instead.

[FR Doc. 2012–26623 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2012–44]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before November 19, 2012.

**ADDRESSES:** You may send comments identified by docket number FAA–2007–27903 using any of the following methods:

• *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments digitally.

• *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mark Forseth, ANM–113, (425) 227–2796, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, or Ralen Gao, (202) 267–3168, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 23, 2012.

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2007–27903.

*Petitioner:* Embraer S.A.

*Section of 14 CFR Affected:* § 25.813(e) at Amendment 25–88.

*Description of Relief Sought:* Amend Exemption No. 9458 to provide relief from requirements to allow installation of motor-actuated doors in passenger-

compartment partitions in Embraer Model ERJ 190–100 ECJ airplanes.

[FR Doc. 2012–26584 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2012–42]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before November 19, 2012.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2009–1077 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Andrea Copeland, 202–267–8081. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 22, 2012.

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2009–1077.

*Petitioner:* Learjet Inc.

*Section of 14 CFR Affected:* § 25.813(e) at Amendment 25–116.

*Description of Relief Sought:* Exemption to permit installation of interior doors between the passenger compartment and an emergency exit on Learjet Model LJ–200–1A10 airplanes.

[FR Doc. 2012–26583 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2012–43]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before November 19, 2012.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2012–0706 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mark Forseth, ANM–113, (425) 227–2796, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, or Andrea Copeland, (202) 267–8081, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 23, 2012.

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2012–0706.

*Petitioner:* The Boeing Company.

*Section of 14 CFR Affected:* § 25.981(a)(3) at Amendment 25–64.

*Description of Relief Sought:* Exemption from the requirements of fuel-tank structural lightning protection

for horizontal-stabilizer fuel tanks on Boeing Model 747–8 airplanes.

[FR Doc. 2012–26581 Filed 10–29–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2012–45]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (CFR) part 25. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before November 19, 2012.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2012–0972 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Michael Menkin, ANM–113, Standardization Branch, Federal Aviation Administration, Transport Airplane Directorate, 1601 Lind Ave. SW., Renton, WA 98057; email *michael.menkin@FAA.gov*; 425–227–2793; fax: 425–227–1320; or Andrea Copeland, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW.; Washington, DC 20591; email *andrea.copeland @faa.gov*; (202) 267–8081.

Issued in Washington, DC, on October 23, 2012.

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2012–0972.

*Petitioner:* Boeing Commercial Airplane Company.

*Section of 14 CFR Affected:* § 25.841(a)(2) and (a)(3) at Amendment 87.

*Description of Relief Sought.* The petitioner requests relief from cabin decompression requirements following an uncontained engine failure so the Model 787–9 airplanes would be able to operate above 40,000 ft altitude, where they are most efficient, thereby reducing fuel burn and producing lower emissions.

[FR Doc. 2012–26582 Filed 10–29–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2012–0024]**

### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated February 24, 2012, the Everett Railroad Company (EV) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 215–Railroad Freight Car Safety Standards; 223–Safety Glazing Standards—Locomotives, Passengers Cars and Cabooses; and 224–Reflectorization of Rail Freight Rolling Stock. FRA assigned the petition docket number FRA–2012–0024.

Specifically, EV seeks a waiver of compliance from the railroad freight car safety standards contained at 49 CFR 215.303, which requires stenciling on restricted freight cars with a clearly legible letter ''R'' followed by the basis of the restriction. This request is made for a caboose (Car Number EV 91517). EV also requested Special Approval to continue in service the same cars in accordance with 49 CFR 215.203(c). The ages of these cars are more than 50 years from their original construction dates, and therefore, are restricted per 49 CFR 215.203(a), unless EV receives a Special Approval from FRA. Additionally, EV requests a waiver from Part 223 for the glazing requirements and Part 224 for the reflectorization requirements.

EV states that the subject car is restricted by age. It is retained primarily for use on excursion trains, historical and public relation events, along with possible, but very infrequent, use as a crew caboose or shoving platform.

In order to preserve its historic appearance, EV requests a waiver from requirements for special stenciling and reflectorization. EV also stated that the requirement of FRA-certified glazing would be costly and difficult to install.

In support of its request, EV stated that its operation is over a total of approximately 25 miles of track located entirely in Blair County, PA. The trains operate under restricted speed rules not exceeding 20 mph. The subject car is not, and will not be, interchanged with any other railroad. EV's operating territory is generally rural in nature, and the car has been inspected and found to be safe to operate.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a

hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov/.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by December 14, 2012 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or online at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on October 22, 2012.

**Robert C. Lauby,**

*Deputy Associate Administrator for Regulatory and Legislative Operations.*

[FR Doc. 2012–26693 Filed 10–29–12; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD 2012 0100]**

### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TRANQUILO; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before November 29, 2012.

**ADDRESSES:** Comments should refer to docket number MARAD–2012–0100. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel TRANQUILO is:

*Intended Commercial Use of Vessel:* ''Sailing Charters''

*Geographic Region:* ''California, Oregon, Washington, Hawaii, Florida.''

The complete application is given in DOT docket MARAD–2012–0100 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**Privacy Act**

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: October 23, 2012.

**Julie P. Agarwal,**

*Secretary, Maritime Administration.*

[FR Doc. 2012–26692 Filed 10–29–12; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; General Motors Corporation

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

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full General Motors Corporation's (GM) petition for an exemption of the Cadillac ATS vehicle line in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

**DATES:** The exemption granted by this notice is effective beginning with the 2014 model year (MY).

**FOR FURTHER INFORMATION CONTACT:** Ms. Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Standards, NHTSA, W43–439, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

**SUPPLEMENTARY INFORMATION:** In a petition dated July 31, 2012, GM requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the Cadillac ATS vehicle line beginning with MY 2014. The petition requested an exemption from parts-

marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, GM provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Cadillac ATS vehicle line. GM will install a passive, transponder-based, electronic immobilizer device (PASS-Key III+) as standard equipment on its Cadillac ATS vehicle line beginning with MY 2014. GM stated that the device will provide protection against unauthorized use (i.e., starting and engine fueling), but will not provide any visible or audible indication of unauthorized vehicle entry (i.e., flashing lights or horn alarm).

The PASS-Key III+ device is designed to be active at all times without direct intervention by the vehicle operator. The device is fully armed immediately after the ignition has been turned off and the key removed. Components of the antitheft device include an electronically-coded ignition key, an antenna module, a controller module and an engine control module. The ignition key contains electronics molded into the key head, providing billions of possible electronic combinations. The electronics receive energy and data from the antenna module. Upon receipt of the data, the key will calculate a response using an internal encryption algorithm and transmit the response back to the vehicle. The antenna module translates the radio frequency signal received from the key into a digital signal and compares the received response to an internally calculated value. If the values match, the key is recognized as valid, and a password is then transmitted through a serial data link to the engine control module to enable fueling and vehicle starting. If an invalid key code is received, the PASS-Key III+ controller module will send a ''Disable Password'' to the engine control module and starting, ignition, and fuel will be inhibited.

In addressing the specific content requirements of 543.6, GM provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, GM conducted tests based on its own specified standards. GM provided information on the specific tests it uses to validate the integrity, durability and reliability of the PASS-Key III+ device and believes that the device is reliable and durable since the components must operate as designed after each test. GM also stated that the design and assembly processes of the PASS-Key III+ subsystem and components are validated for 10 years of vehicle life and 150,000 miles of performance.

GM stated that the PASS-Key III+ device has been designed to enhance the functionality and theft protection provided by its first, second and third generation PASS-Key, PASS-Key II, and PASS-Key III devices. GM also referenced data provided by the American Automobile Manufacturers Association (AAMA) in support of the effectiveness of GM's PASS-Key devices in reducing and deterring motor vehicle theft. The AAMA's comments to the agency's Preliminary Report on ''Auto Theft and Recovery Effects of the Anti-Car Theft Act of 1992 and the Motor Vehicle Theft Law Enforcement Act of 1984'', (Docket 97–042; Notice 1), showed that between MYs 1987 and 1993, the Chevrolet Camaro and Pontiac Firebird vehicle lines experienced a significant theft rate reduction after installation of a Pass-Key like antitheft device as standard equipment on the vehicle lines.

GM also stated that the theft data, as provided by the Federal Bureau of Investigation's National Crime Information Center (NCIC) and compiled by the agency, show that theft rates are lower for exempted GM models equipped with the PASS-Key like systems than the theft rates for earlier models with similar appearance and construction that were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III devices on other GM models, and the advanced technology utilized in PASS-Key III+, GM believes that the PASS-Key III+ device will be more effective in deterring theft than the parts-marking requirements of CFR Part 541.

Additionally, GM stated that the PASS-Key III+ is installed as standard equipment on the Cadillac CTS vehicle line. GM was granted an exemption from the parts-marking requirements by the agency for the Cadillac CTS vehicle line beginning with the 2011 MY (See 74 FR 62385, November 27, 2009). The average theft rate using 3 MYs theft data (MYs 2008–2010) provided by the agency for the Cadillac CTS vehicle line is 1.49.

GM believes that PASS-Key III+ devices will be more effective in deterring theft than the parts-marking requirements and that the agency should find that inclusion of the PASS-Key III+ device on the Cadillac ATS vehicle line is sufficient to qualify it for full exemption from the parts-marking requirements.

GM's proposed device lacks an audible or visible alarm. Therefore, this device cannot perform one of the functions listed in 49 CFR 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. Based on comparison of the reduction in the theft rates of Chevrolet Corvettes using a passive theft deterrent system along with an audible/visible alarm system to the reduction in theft rates for the Chevrolet Camaro and the Pontiac Firebird models equipped with a passive theft deterrent device without an alarm, GM finds that the lack of an alarm or attention-attracting device does not compromise the theft deterrent performance of a device such as PASS-Key III+ system. Theft data have indicated a decline in theft rates for vehicle lines equipped with comparable devices that have received full exemptions from the parts-marking requirements. In these instances, the agency has concluded that the lack of an audible or visible alarm has not prevented these antitheft devices from being effective protection against theft.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that GM has provided adequate reasons for its belief that the antitheft device for the Cadillac ATS vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information GM provided about its device.

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Based on the evidence submitted by GM, the agency believes that the antitheft device for the Cadillac ATS vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the Cadillac ATS vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with the 2014 model year vehicles. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard.

If GM decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: October 24, 2012.

**Christopher J. Bonanti,**

*Associate Administrator for Rulemaking.*

[FR Doc. 2012–26628 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Chrysler

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

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the Chrysler LLC, (Chrysler) petition for exemption of the Chrysler [confidential] vehicle line in accordance with 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard 49 CFR Part 541, *Federal Motor Vehicle Theft Prevention Standard.* Chrysler requested confidential treatment for specific information in its petition. The agency will grant Chrysler's request for confidential treatment by separate letter. Chrysler informed the agency that the nameplate will be released prior to introduction of the vehicle line.

**DATES:** The exemption granted by this notice is effective beginning with the 2014 Model Year (MY).

**FOR FURTHER INFORMATION CONTACT:** Ms. Carlita Ballard, International Policy, Fuel Economy and Consumer Programs, NHTSA, W43–439, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

**SUPPLEMENTARY INFORMATION:** In a petition dated July 31, 2012, Chrysler requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the MY 2014 Chrysler [confidential] vehicle line. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR Part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Chrysler provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the [confidential] vehicle line. Chrysler will install the Sentry Key Immobilizer System (SKIS) antitheft device as standard equipment on the vehicle line. The SKIS provides passive vehicle protection by preventing the engine from operating unless a valid electronically encoded key is detected in the ignition system of the vehicles. The major components of the SKIS device consist of the Radio Frequency Hub Module (RFHM), Ignition Node Module (IGNM), Engine Control Module, Body Controller Module, Sentry Key Immobilizer Module (SKIM), the transponder key that performs the immobilizer function and the Instrument Panel Cluster which contains the telltale function only. According to Chrysler, all of these components work collectively to perform the immobilizer function. Chrysler stated that its [confidential] vehicle line will also be available with an optional visible or audible alarm system to provide an indication of unauthorized vehicle entry (i.e., flashing lights or horn alarm).

According to Chrysler, the immobilizer feature is activated when the key is removed from the ignition system, whether the doors are open or not. Only a valid key inserted into the ignition system will allow the vehicle to start and continue to run.

Chrysler stated that the functions and features of the SKIM are all integral to the RFHM. The SKIM performs the interrogation with the transponder in the key. The RFHM receives Low Frequency (LF) and/or Radio Frequency (RF) signals from the Sentry Key transponder which is integral to the FOB with integrated key. The RFHM contains an RF transceiver, a microprocessor and serves as the Remote Keyless Entry RF receiver.

The RFHM is paired with the IGNM that contains either a rotary ignition switch (keyed vehicles) or a START/STOP push button (keyless vehicles). According to Chrysler, the SKIS will be placed on both its keyless entry vehicles and keyed vehicles. For the keyed vehicles, the IGNM transmits an LF signal to excite the transponder in the key when the ignition switch is turned to the ON position. The IGNM waits for a signal response from the transponder and transmits the response to the RFHM. If the response identifies the transponder key as invalid or if no response is received from the transponder key, Chrysler stated that the

RFHM sends an invalid key message to the Engine Control Module, which will disable engine operation and immobilize the vehicle after two seconds of running. This process is also similar for the keyless vehicles. Chrysler stated that when the keyless START/STOP button is pressed, the RFHM transmits a signal to the transponder key through LF antennas to the RFHM. The RFHM waits for a signal from the transponder. If the response from the transponder identifies the transponder key as invalid or the transponder key is not within the car's interior, the engine will be disabled and the vehicle will be immobilized after two seconds of running.

To avoid any perceived delay when starting the vehicle with a valid transponder key and to prevent unburned fuel from entering the exhaust, Chrysler stated that the engine is permitted to run for no more than two seconds if an invalid transponder key is used. Chrysler stated that only six consecutive invalid vehicle start attempts are permitted and all other attempts are locked out by preventing the fuel injectors from firing and disabling the starter.

Chrysler also stated that each ignition key used in the SKIS has an integral transponder chip included on the circuit board beneath the cover of the integral Remote Keyless Entry transmitter. Each transponder key has a unique transponder identification code that is permanently programmed into it by the manufacturer which must be programmed into the RFHM to be recognized by the SKIS as a valid key. Chrysler stated that once a Sentry Key has been programmed to a particular vehicle, it cannot be used on any other vehicle.

In addressing the specific content requirements of 49 CFR Part 543.6, Chrysler provided information on the reliability and durability of the device. Chrysler conducted tests based on its own specified standards and stated its belief that the device meets the stringent performance standards prescribed. Specifically, Chrysler stated that its device must demonstrate a minimum of 95 percent reliability with 90 percent confidence. In addition to the design and production validation test criteria, Chrysler stated that the SKIS device also undergoes a daily short term durability test and all of its systems undergo a series of three functional tests for durability prior to being shipped from the supplier to the vehicle assembly plant for installation in its vehicles.

Chrysler stated that its vehicles are also equipped with a security indicator that acts as a diagnostic indicator. Chrysler stated that if the RFHM detects an invalid transponder key or if a transponder key related fault exists, the security indicator will flash. If the RFHM detects a system malfunction or the SKIS has become ineffective, the security indicator will stay on. If the vehicle is equipped with a Customer Learn transponder programming feature, the security indicator will flash whenever the Customer Learn programming is in use.

Chrysler stated that it expects the [confidential] vehicle line to mirror the lower theft rate results achieved by the Jeep Grand Cherokee vehicle line when ignition immobilizer systems were included as standard equipment on the line. Chrysler stated that it has offered the SKIS immobilizer system as standard equipment on all Jeep Grand Cherokee vehicles since the 1999 model year. Chrysler indicated that the average theft rate, based on NHTSA's theft data, for the Jeep Grand Cherokee vehicles for the four model years prior to 1999 (1995–1998), when a vehicle immobilizer system was not installed as standard equipment, was 5.3574 per one thousand vehicles produced, significantly higher than the 1990/1991 median theft rate of 3.5826. However, the average theft rate for the nine model years (1999–2008, no data available for 2007) after installation of the standard immobilizer device was 2.5704, which is significantly lower than the median. The Jeep Grand Cherokee vehicle line was granted an exemption from the parts-marking requirements beginning with MY 2004 (67 FR 79687, December 30, 2002). Chrysler further stated that NHTSA's theft data for the Jeep Grand Cherokee indicates that the inclusion of a standard immobilizer system resulted in a 52 percent net average reduction in vehicle thefts.

Pursuant to 49 U.S.C. 33106 and 49 CFR Part 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Chrysler has provided adequate reasons for its belief that the antitheft device for the vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). This conclusion is based on the information Chrysler provided about its device.

The agency concludes that the device will provide four of the five types of performance listed in 49 CFR Part 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Chrysler's petition for exemption for its [confidential] vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2014 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard.

If Chrysler decides not to use the exemption for this vehicle line, it must formally notify the agency. If such a decision is made, the vehicle line must be fully marked as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Chrysler wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. 49 CFR Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, 49 CFR Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that 49 CFR Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of

which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: October 24, 2012.

**Christopher J. Bonanti,**

*Associate Administrator for Rulemaking.*

[FR Doc. 2012–26627 Filed 10–29–12; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Petition for Exemption From the Vehicle Theft Prevention Standard; Volkswagen Group of America, Inc.

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

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the Volkswagen Group of America, Inc.'s (Volkswagen) petition for exemption of the Volkswagen Eos vehicle line in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard, 49 CFR Part 541, *Federal Motor Vehicle Theft Prevention Standard.*

**DATES:** The exemption granted by this notice is effective beginning with the 2014 model year.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43–443, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–4139. Her fax number is (202) 493–2990.

**SUPPLEMENTARY INFORMATION:** In a petition dated June 27, 2012, Volkswagen requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the new MY 2014 Eos vehicle line. The petition requested an exemption from parts-marking requirement pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Volkswagen provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Eos vehicle line. Volkswagen will install its fourth generation, transponder-based electronic engine immobilizer antitheft device as standard equipment on its Eos vehicle line beginning with MY 2014. Volkswagen stated that its immobilizer device is aimed to actively incorporate the engine control unit into the evaluation and monitoring process. Key components of the antitheft device will include a passive immobilizer, a warning message indicator, an adapted transponder ignition key, an ignition lock reading coil, an engine control unit and an immobilizer control unit. Activation of the immobilizer device occurs when the mechanical ignition key is switched to the OFF position or when the key transponder is taken outside the vehicle in the optional keyless start option. Deactivation of the device occurs when the ignition is turned on or the key transponder is recognized by the immobilizer control unit. The key transponder sends a fixed code to the immobilizer control unit. If this is identified as the correct code, a variable code is generated in the immobilizer control unit and sent to the transponder. A secret arithmetic process is then started in the transponder and the control unit according to a set of specific equations. The results of the computing process are evaluated in the control unit and if they tally, the vehicle key is acknowledged as correct. The engine control unit then sends a variable code to the immobilizer control unit. If all these data match up with one another, start-up of the vehicle is enabled. Volkswagen stated that a new variable code is generated each time during this secret computing process. Therefore, Volkswagen believes that the code is undecipherable. Volkswagen stated that it will also offer a keyless start option for the vehicle line. Volkswagen's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

Volkswagen stated that the antitheft device will also include an audible and visible alarm feature as standard equipment. When the system is activated, the alarm will trigger if one of the doors, the engine hood or the luggage compartment lid are forcibly opened. Volkswagen also stated that when any of the protected components are violated, the horn will sound and the vehicle's turn signals will flash. The antitheft alarm system is automatically activated when the vehicle is locked by pressing the lock button on the remote control vehicle key. Deactivation of the alarm system occurs by pressing the unlock button on the remote control vehicle key or turning on the ignition with a valid key.

In addressing the specific content requirements of 543.6, Volkswagen provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Volkswagen stated that the antitheft device has been tested for compliance to its corporate requirements for electrical and electronic assemblies in motor vehicles related to performance.

Volkswagen stated that the Eos vehicle line was introduced in MY 2007 as a parts-marked vehicle and was also equipped with a standard anti-theft device. Volkswagen also stated that the antitheft device has been effective in maintaining a low theft rate for the Eos and that removal of parts-marking will not have an adverse effect on the theft rate. Volkswagen stated that the theft rates for MYs 2007, 2008 and 2009 are 0.8250, 0.7239 and 0.5229, respectively. Using an average of 3 MYs of the most recent theft data (2008–2010), the theft rate for the Eos vehicle line is well below the median at 0.1736.

Volkswagen compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of the Theft Prevention Standard. Specifically, Volkswagen provided data on the theft reduction benefits experienced by other vehicle lines installed with immobilizer devices that have already been granted petitions for exemptions by the agency. Volkswagen stated the theft rates for the MYs 2007–2009 Mitsubishi Eclipse, BMW 3, Volkswagen Golf/GTI, Volkswagen New Beetle and the MYs 2008–2009 BMW 1 series vehicles have been below the median theft rate. Using an average of 3 MYs data (2007–2009), the average theft rates are 2.5788, 0.6548, 1.1433, and 0.6025, respectively. The average theft rate using two MYs data for the BMW 1 series is 0.2383. Volkswagen also stated that the proposed device is similar to the antitheft device installed on its MY 2011 Tiguan vehicle line which was

granted an exemption by the agency on December 4, 2009 (see 74 FR 63820).

In support of its belief that its antitheft device will be as or more effective in reducing and deterring vehicle theft than the parts-marking requirement, Volkswagen referenced the effectiveness of immobilizer devices installed on other vehicles for which NHTSA has granted exemptions. Specifically, Volkswagen referenced information from the Highway Loss Data Institute which showed that BMW vehicles experienced theft loss reductions resulting in a 73% decrease in relative claim frequency and a 78% lower average loss payment per claim for vehicles equipped with an immobilizer. Volkswagen also stated that NCIC data showed a 70% reduction in theft when comparing the MY 1987 Ford Mustang with a standard immobilizer to the MY 1995 Ford Mustang without an immobilizer.

Based on the supporting evidence submitted by Volkswagen on the device, the agency believes that the antitheft device for the Eos vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): promoting activation; attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Volkswagen has provided adequate reasons for its belief that the antitheft device for the Volkswagen Eos vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). This conclusion is based on the information Volkswagen provided about its device.

For the foregoing reasons, the agency hereby grants in full Volkswagen's petition for exemption for the Volkswagen Eos vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2014 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Volkswagen decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Volkswagen wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

**Authority:** 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: October 24, 2012.

**Christopher J. Bonanti,**

*Associate Administrator for Rulemaking.*

[FR Doc. 2012–26626 Filed 10–29–12; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 3468

**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 3468, Investment Credit.

**DATES:** Written comments should be received on or before December 31, 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 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:* Investment Credit.

*OMB Number:* 1545–0155

*Abstract:* Form 3468 is used to compute Taxpayers' credit against their income tax for certain expenses incurred for their trades or businesses. The information collected is used by the IRS to verify that the credit has been correctly computed.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a current OMB approval.

*Affected Public:* Business or other for-profit.

*Estimated Number of Responses:* 15,345.

*Estimated Time per Response:* 34 hours, 36 minutes.

*Estimated Total Annual Burden Hours:* 530,937.

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. 2012–26576 Filed 10–29–12; 8:45 am]

BILLING CODE 4830–01–P

# Reader Aids

**Federal Register**

Vol. 77, No. 210

Tuesday, October 30, 2012

## CUSTOMER SERVICE AND INFORMATION

| | |
|---|---|
| **Federal Register/Code of Federal Regulations** | |
| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |
| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6064** |
| Public Laws Update Service (numbers, dates, etc.) | **741–6043** |
| TTY for the deaf-and-hard-of-hearing | **741–6086** |

## ELECTRONIC RESEARCH

### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

### E-mail

**FEDREGTOC-L** (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

**FEDREGTOC-L** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

**Reminders.** Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

## FEDERAL REGISTER PAGES AND DATE, OCTOBER



## 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.

## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

**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**

## Public Laws Electronic Notification Service (PENS)

**PENS** is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

**Note:** This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.